

# Exhibit 16

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO.: 1:22-cv-22171-JEM

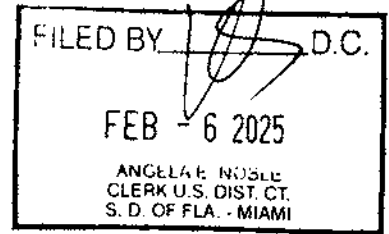
MICHAEL FITZGERALD,  
individually, and YELANY DE VARONA,  
individually,

Plaintiffs,

v.

RONDA MCNAE, individually, and  
WILLIAM MCNAE, individually,

Defendants.



**DEFENDANT RONDA MCNAE'S MOTION FOR LEAVE TO STRIKE PLAINTIFF'S  
MOTION FOR A SURREPLY TO DE 275**

Defendant Ronda McNae, appearing pro se, respectfully moves this Court to strike Plaintiffs' Motion for Leave to File a Surreply (DE 284) as procedurally improper. Plaintiffs' motion is another example of excessive motion practice and procedural abuse, aimed at controlling the narrative and prolonging litigation. In support, Defendant states as follows:

**I. INTRODUCTION**

Plaintiff asserts that Defendant's Reply (DE 283) introduced new arguments which is inaccurate. Each issue Plaintiff seeks to rebut was already raised in Defendant's Motion to Dismiss (DE 275) and supporting exhibits (DE 275-1 & DE 275-2). Plaintiff's motion (DE 284) is not about responding to genuinely new legal arguments—it is a bad-faith attempt to have the last word and gain an unfair litigation advantage against me, a pro se litigant. Plaintiff has a pattern of improper litigation tactics, including:

- Misuse of privilege claims (DE 67),
- Weaponization of the Confidential Settlement Agreement (DE 105), and
- Retaliatory use of the legal system (DE 39).

Now, Plaintiff seeks to contradict his own prior position. When Defendant previously sought leave to file a surreply (DE 104), Plaintiff opposed the motion, arguing:

1. No new arguments were raised in Plaintiff's reply brief justifying such a surreply;
2. Defendant already had a full opportunity to respond; and
3. A surreply would improperly give Defendant "another bite at the apple."

Despite this firm stance, Plaintiff now reverses course and demands a surreply for himself, claiming Defendant's Reply (DE 283) "raises new arguments" and "exceeds the scope" of the response. This procedural gamesmanship cannot be ignored. The Court should apply the same reasoning Plaintiff previously advocated and deny this motion in its entirety.

## **II. LEGAL STANDARD**

### **Surreplies Are Disfavored and Permitted Only in Limited Circumstances**

Plaintiff's Motion for Leave to File a Surreply (DE 284) does not meet the standard for granting a surreply in the Southern District of Florida. Surreplies are not permitted as a matter of right and are only allowed in rare circumstances when a reply brief introduces new legal arguments or evidence that could not have been anticipated in the response. The Southern District of Florida disfavors surreplies, as they "often amount to nothing more than a last-ditch effort to have the final word." Plaintiff's motion fails to meet this standard and serves only to further Plaintiff's bad-faith litigation strategy.

### **III. PLAINTIFF'S MOTION SHOULD BE DENIED BECAUSE DEFENDANT'S REPLY DID NOT RAISE NEW ARGUMENTS**

#### **A. Arguments Plaintiff Challenges Were Already Raised in Defendant's Motion to Dismiss (DE 275)**

Plaintiff falsely claims that Defendant's Reply (DE 283) introduced new arguments regarding:

1. Alleged SEC violations by SoftwareONE
2. Plaintiff's counsel providing a misleading timeline to experts
3. Social media surveillance of Defendant as harassment
4. A false affidavit from former Co-Plaintiff Yelany De Varona

However, each of these issues was explicitly raised in Defendant's Motion to Dismiss (DE 275) and its supporting exhibits (DE 275-1 & DE 275-2), including:

1. SoftwareONE's Role and SEC Violations<sup>1</sup>
  - Defendant has previously argued that SoftwareONE played a direct role in the misconduct at issue, and its actions may constitute securities law violations.
  - Evidence in DE 275-2 supports the claim that SoftwareONE knowingly engaged in deceptive practices, which are relevant to the claims and defenses in this case.
  - Plaintiff had a full opportunity to respond to these allegations in his Response (DE 282) and cannot now seek a surreply to reframe the discussion.

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<sup>1</sup> Michael Fitzgerald was likely in a conflict of interest as he remained a member of the Executive Leadership Team while also serving as a shareholder and investor. As Chief Information Officer (CIO) of SWO Inc., he was subject to heightened ethical and fiduciary obligations, particularly given the timing of the company's IPO on October 25, 2019—just six days after the alleged physical and sexual assault that Defendant later reported to SWO in early February 2020, prior to the negotiation of the Confidential Settlement Agreement (CSA) he pressured the McNae's to sign following threats of job loss. Fitzgerald had a hand in Will McNae's promotion in September 2019 so there was a real threat and fear Fitzgerald would retaliate using his influence to get Will McNae let go from Microsoft. Ironically, Will McNae was let go from Microsoft three months after Fitzgerald's Deposition where Fitzgerald stated the CEO of SWO, Deiter Schlosser, called Microsoft and told them "to get fucked".

2. Misleading Timeline Provided to Experts

- Defendant previously argued that Plaintiff's counsel selectively omitted key events from case timelines to mislead experts.
- Exhibit B of DE 275-2 contains evidence of these omissions and their impact on the case's factual background.

3. Social Media Surveillance as Harassment

- Defendant previously argued that Plaintiff's legal team and associates monitored her social media as an intimidation tactic.
- Exhibit A of DE 275-1 contains evidence linking Plaintiff's counsel to social media accounts monitoring Defendant's activity.

4. False Affidavit from Yelany De Varona

- Defendant previously raised concerns about Plaintiff's reliance on a false affidavit submitted by Yelany De Varona before the case was even filed.
- Exhibit C of DE 275-1 contains records showing contradictions in Yelany's statements.

Because these issues were already part of the original motion (DE 275), Plaintiff's claim that they are "new arguments" is entirely without merit.

#### **IV. Supporting Evidence and Legal Grounds for Defendant's Motion to Strike Surreply**

Plaintiffs' counsel has engaged in a sustained pattern of litigation misconduct, including violations of ethical rules, misrepresentation of facts, discovery abuses, and procedural gamesmanship. This conduct not only undermines the integrity of the judicial process but also demonstrates why DE 284 should be stricken. The following sections outline specific instances of misconduct and how they support the relief sought by Defendant.

##### **1. Violations of Florida Bar Rules & Deceptive Litigation Tactics**

Plaintiffs' counsel has repeatedly engaged in unethical conduct, violating multiple Florida Bar Rules to gain an unfair litigation advantage. Their tactics include making false statements, misrepresenting facts, and improperly communicating with represented parties. Although the Court did not grant sanctions in DE 150 due to a procedural error on my part as a pro se litigant, the ruling did not address the merits of the allegations. Rather than seeking to relitigate those individual acts, the following examples illustrate a broader pattern of misconduct by Plaintiffs' counsel.

Key Violations Examples (DE 150 – Motion to Sanction Opposing Counsel):

- Rule 4-3.3 (Candor Toward the Tribunal): Opposing counsel knowingly made false statements in court.
- Rule 4-4.1 (Truthfulness in Statements to Others): Material facts were misrepresented to the Court and opposing parties.
- Rule 4-4.2 (Communication with Represented Parties): Improper contact with represented parties, in violation of ethical obligations.
- Litigation Misconduct: Opposing counsel omitted key facts, altered the procedural background, and filed excessive motions to burden Defendant and prolong litigation.

How This Supports Striking DE 284:

Plaintiffs' counsel has a well-documented history of abusing motion practice by filing misleading and excessive pleadings. DE 284 continues this pattern by seeking unnecessary additional briefing. Given their prior misconduct, the Court should deny further opportunities for Plaintiffs to manipulate the litigation process.

## **2. Misrepresentation of Facts & Procedural Misconduct**

Plaintiffs' counsel has distorted facts and misrepresented procedural history to mislead the Court. These deceptive practices have denied Defendant the opportunity to fairly respond and have further delayed proceedings.

Key Violations (DE 155 – Reply in Support of Motion for Sanctions):

- Knowingly misrepresenting case timeline and procedural history.
- Manipulating deposition statements to distort events and mislead the Court.
- Failure to properly confer before filing motions, violating procedural requirements.
- Withholding notice of key filings to prevent Defendant from responding appropriately.

How This Supports Striking DE 284:

DE 284 falsely claims that Defendant's Reply (DE 283) introduced "new arguments" when these issues were already raised in prior motions. Given Plaintiffs' repeated procedural misconduct, their credibility in seeking additional briefing is undermined, warranting the striking of DE 284.

### **3. Discovery Misconduct & Withholding Evidence**

Plaintiffs' legal team has engaged in systematic discovery abuses, selectively disclosing documents, withholding exculpatory evidence, and obstructing access to crucial information.

Key Violations:

- DE 231 – Motion to Supplement the Record: Opposing counsel withheld key evidence disproving Fitzgerald's claims of reputational harm and selectively disclosed documents to mislead the Court.
- DE 245 – Additional Motion to Supplement the Record: Plaintiffs' attorneys colluded with SoftwareONE to obstruct discovery, improperly invoked privacy laws to block employment records, and engaged in misrepresentation warranting sanctions.

- DE 252 – Reply in Support of Motion to Supplement the Record: Confidentiality provisions were weaponized to conceal SoftwareONE’s internal misconduct investigations, and relief was sought under Rule 60(b)(2) & Rule 60(b)(3) for discovery fraud.

How This Supports Striking DE 284:

Plaintiffs’ counsel has a demonstrated history of withholding evidence while falsely asserting procedural fairness. DE 284 represents another attempt to suppress unfavorable arguments and unnecessarily prolong briefing, justifying its removal.

#### **4. Plaintiffs’ Pattern of Using the Legal System as a Weapon**

Plaintiffs have repeatedly leveraged the legal system to suppress Defendant’s rights and silence her through procedural manipulation, including improper reliance on a Confidential Settlement Agreement (CSA) to conceal critical allegations.

Key Violations:

- DE 105 – Defendant’s Affirmative Defenses:
  - Fitzgerald used the CSA to suppress Defendant’s allegations.
  - Fraudulent inducement & duress—Fitzgerald coerced Defendant into signing the CSA under false pretenses.
  - CSA is void under the Florida Sunshine in Litigation Act because it conceals allegations of sexual assault, which constitute a public hazard.
- DE 39 – Motion to Dismiss Amended Complaint:
  - Plaintiff’s claims are retaliatory and intended to silence Defendant.
  - The claims are legally baseless and disguised as contract claims to punish Defendant.

How This Supports Striking DE 284:



Plaintiffs' attorneys have repeatedly attempted to suppress key evidence through procedural abuse. DE 284 is yet another effort to weaponize the legal process against Defendant, warranting judicial intervention to strike it from the record.

#### **5. Plaintiffs' Counsel's Contradictions & Procedural Gamesmanship**

Throughout this litigation, Plaintiffs' attorneys have repeatedly contradicted themselves, mischaracterized discovery matters, and engaged in procedural tactics designed to mislead the Court.

Key Violations (DE 99 – Defendant's Motion for Leave to File Surreply):

- Plaintiff's Reply contained false factual statements and mischaracterizations about discovery.
- Contradictions in Witness Objections: Plaintiffs admitted they were not prejudiced by three of the four witnesses in Defendant's Amended Witness List, directly contradicting their own arguments.

How This Supports Striking DE 284:

Plaintiffs' attorneys have demonstrated a pattern of procedural manipulation and factual inconsistencies. DE 284 is yet another example of these tactics and allowing it to remain would only enable further abuse of the judicial process.

The evidence overwhelmingly demonstrates Plaintiffs' pattern of procedural misconduct, misrepresentation, and unethical litigation tactics. Given their history of filing excessive, misleading, and contradictory motions, DE 284 is merely another attempt to distort the proceedings and should be stricken. The Court should not permit additional briefing when Plaintiffs' counsel has already demonstrated a repeated abuse of motion practice.

#### **IV. PLAINTIFF'S PRIOR MISUSE OF PRIVILEGE CLAIMS (DE 67) FURTHER DEMONSTRATES PROCEDURAL ABUSE**

Plaintiff's counsel has a history of manipulating privilege claims to suppress evidence:

- DE 67 shows that Plaintiff opposed Defendant's challenge to privilege claims regarding key employment documents.
- Plaintiff strategically invoked privilege to block damaging evidence while selectively waiving privilege when it suited his case.

This pattern of procedural manipulation mirrors the same bad-faith litigation tactics present in this motion.

#### **V. REQUEST FOR SANCTIONS UNDER RULE 37**

Given Plaintiffs' ongoing bad-faith litigation tactics, Defendant respectfully requests that this Court:

1. STRIKE Plaintiffs' Motion for Leave to File Surreply (DE 284) as procedurally improper.
2. DENY Plaintiffs' request to file a surreply, as no new issues were introduced in Defendant's Reply (DE 283).
3. IMPOSE SANCTIONS under Rule 37(b) and the Court's inherent authority for Plaintiffs' continued misuse of discovery, procedural abuse, and misrepresentations to the Court.

#### **VI. CONCLUSION**

Plaintiff's Motion for Leave to File a Surreply (DE 284) is procedurally improper and should be denied because:

1. Defendant's Reply (DE 283) did not raise new arguments—all issues were presented in Defendant's Motion to Dismiss (DE 275) and exhibits (DE 275-1 & DE 275-2).
2. Plaintiff's broader litigation strategy relies on bad-faith tactics, including weaponization of the CSA (DE 105), retaliation through the legal system (DE 39), and misuse of privilege claims (DE 67).
3. Allowing a surreply would reward excessive motion practice and delay tactics.

Accordingly, Defendant respectfully requests that this Court DENY Plaintiff's Motion for Leave to File a Surreply (DE 284) in its entirety.

Dated: February 4, 2025



By: Ronda Delapina McNae  
Pro Se Defendant  
504 11<sup>th</sup> PL Kirkland, WA 98033  
Tel: (206) 914-6752  
Psnse1mcnae@gmail.com

#### **CERTIFICATE OF CONFERRAL**

Pursuant to Local Rule 7.1(a)(3), Defendant certifies that she engaged in active communication with Plaintiffs' counsel, Meredith Gussin and Peter Berlowe, regarding this motion between January 31 and February 3, 2025 (Exhibit A). During this time, Defendant sought Plaintiffs' position on striking DE 284 as procedurally improper. Despite repeated inquiries, Ms. Gussin refused to provide a definitive answer and instead prolonged the conferral process. Given that Plaintiff historically oppose any motion that does not align with their litigation strategy, and given their refusal to state their position clearly, Defendant assumes Plaintiffs oppose this motion. Accordingly, Defendant submits this motion for the Court's consideration.

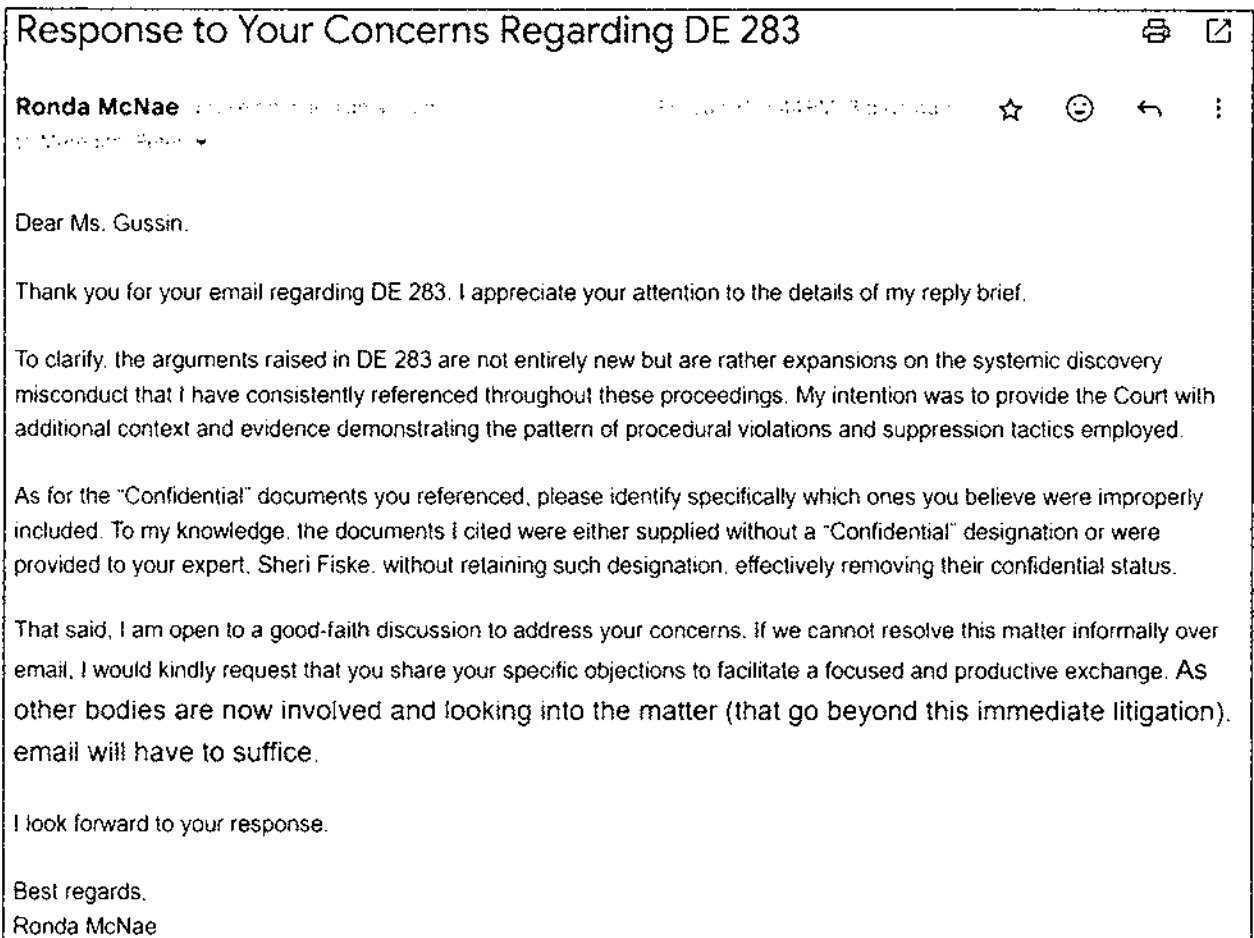
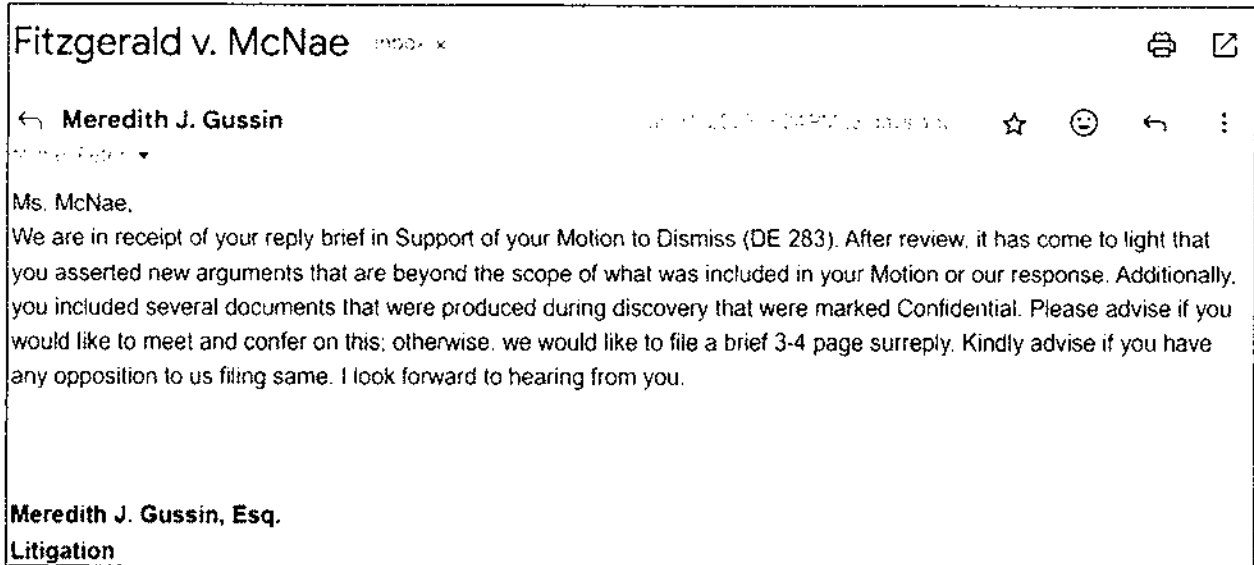
#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 4, 2025, a true copy of the foregoing Motion was sent via FedEx to the Clerk of the Court, Southern District of Florida, 400 N. Miami Ave, Room 8N09, Miami, FL 33128, and Plaintiff's counsel, in compliance with pro se litigant requirements.

#### **SERVICE LIST**

Peter E. Berlowe, Esq.  
Meredith Gussin, Esq.  
Assouline & Berlowe, P.A.  
Miami Tower  
100 SE 2nd Street, Suite 3105  
Miami, FL 33131  
Tel: 305-567-5576  
Fax: 305-567-9343  
[peb@assoulineberlowe.com](mailto:peb@assoulineberlowe.com)  
[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)  
*Counsel for Plaintiffs*

# Exhibit A



On Fri, Jan 31, 2025 at 3:54 PM Meredith J. Gussin <[mjgussin@msbca.com](mailto:mjgussin@msbca.com)> wrote:  
What other bodies are you referring to?

The documents that were marked confidential are pages 18-20, 22, 24-27 of your reply brief at Exhibit B. Can you advise where you found those documents as the bates labels have been redacted?

As to new arguments those include reference to Neil Lomax and my husband, Grant Gussin; allegations regarding SEC violations, providing a timeline to Dr DiTornasso, and Ms. De Varona's affidavit. These were not included in your initial motion and are, therefore, beyond the scope of what is appropriate in a reply brief.

Get Outlook for iOS

**From:** Ronda McNae <[ronda.mcnae@ronda.com](mailto:ronda.mcnae@ronda.com)>  
**Sent:** Friday, January 31, 2025 7:08:24 PM  
**To:** Meredith J. Gussin <[mjgussin@msbca.com](mailto:mjgussin@msbca.com)>  
**Cc:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Subject:** Re: Response to Your Concerns Regarding DE 283

Ms. Gussin,

A quick review confirms that you are mistaken regarding pages 24-27. I encourage you to carefully review your own production. I will locate the copies I received of pages 18-20 and 22 in the next few hours as I'm home with all the kids. If I inadvertently produced these and they were marked, I will rectify or call the chambers to figure out the best procedure in hopes to make an update immediately.

Additionally, what new arguments are you referring to? If I'm not in agreement with your assertion, I will move to strike your motion.

It is particularly ironic that the very documents you now claim are marked "confidential"—internal HR records I previously shared with Microsoft—have been weaponized against my family. This is especially troubling given that I exercised discretion in their disclosure, aligning with Honorable Magistrate Judge Becerra's guidance regarding overbroad designations.

Regarding other governing bodies, my position was made clear in my most recent filing in response to your premature request for a case management conference.

Regards,

Ronda

## Re: Response to Your Concerns Regarding DE 283

**Ronda McNae** <[assoulineberlowe@gmail.com](mailto:assoulineberlowe@gmail.com)>

Friday, January 31, 2025, 11:54 PM



1 Message(s) Reply

Ms. Gussin,

If your primary concern is the Grant Gussin issue, I am open to discussing a resolution, though I firmly believe it strongly supports my case. I want to approach this matter in good faith.

-Ronda

On Fri, Jan 31, 2025 at 4:10 PM Meredith J. Gussin <[mjgussin@berlows.com](mailto:mjgussin@berlows.com)> wrote:

If you disclosed those documents to Microsoft that is in violation of the protective order set in place in this case.

I listed the new arguments in my prior email.

**From:** Ronda McNae <[assoulineberlowe@gmail.com](mailto:assoulineberlowe@gmail.com)>

**Sent:** Friday, January 31, 2025 11:54:47 PM

**To:** Meredith J. Gussin <[mjgussin@berlows.com](mailto:mjgussin@berlows.com)>

**Cc:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>

**Subject:** Re: Response to Your Concerns Regarding DE 283

Drafting a motion now, please let me know the reason for the designations for these documents. I'm still searching for the first couple pages as the copies I have were snapshots (hence) not having the designation.

-Ronda

On Fri, Jan 31, 2025 at 8:01 PM Meredith J. Gussin <[mjgussin@berlows.com](mailto:mjgussin@berlows.com)> wrote:

What sort of resolution do you propose? That is not my primary concern. All the new issues remain equally of issue insofar as they are beyond the scope of your motion.

Additionally, will you be voluntarily seeking a removal from the docket of the confidential documents? If not, I believe it is proper for the court to rule on the propriety of your inclusion of protected material in direct violation of the protective order which sets forth the procedure to question or challenge any designation. Your belief that the documents are not confidential isn't sufficient.

**From:** Meredith J. Gussin <[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)>  
**Sent:** Saturday, February 1, 2025 6:09:49 AM  
**To:** Ronda McNae <[ronda.mcnae@jpmc.com](mailto:ronda.mcnae@jpmc.com)>  
**Cc:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Subject:** Re: Response to Your Concerns Regarding DE 283

The documents were designated as confidential in the discovery process. The documents you provided neither have this designation nor the bates label which raises our concerns.

Filing another motion by you does not answer whether or not you are opposed to plaintiff filing a surreply to address these issues. Can you please advise whether or not you are opposed to us filing a brief surreply at this time? Thank you.

**Ronda McNae** <[ronda.mcnae@jpmc.com](mailto:ronda.mcnae@jpmc.com)>

Sat, Feb 1, 2025, 10:07 AM



1. Marking Peter's and Ronda's ✓

Ms. Gussin,

I apologize, but I do oppose your motion. I did not raise new arguments: I referenced items from prior filings, as well as in this filing, to provide context and explain the broader issue of misconduct.

Could you please clarify the confidentiality designations for the documents in question? I have noticed some discrepancies and am trying to understand your client's rationale. It seems that a number of documents listed as confidential may no longer qualify under that designation.

This needs to be addressed in the state case considering you have pointed to the discovery in this case with some designations that may no longer apply.

Regards,





Ronda

**From:** Meredith J. Gussin <[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)>  
**Sent:** Friday, January 31, 2025 8:01:06 PM  
**To:** Ronda McNae <[ronda.mcnae@jpmc.com](mailto:ronda.mcnae@jpmc.com)>  
**Cc:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Subject:** Re: Response to Your Concerns Regarding DE 283

What sort of resolution do you propose? That is not my primary concern. All the new issues remain equally of issue insofar as they are beyond the scope of your motion.

Additionally, will you be voluntarily seeking a removal from the docket of the confidential documents? If not, I believe it is proper for the court to rule on the propriety of your inclusion of protected material in direct violation of the protective order which sets forth the procedure to question or challenge any designation. Your belief that the documents are not confidential isn't sufficient.







**Ronda McNae** rona.mcnae@mcnae.com 10:15 AM CST 2/24/25 1 min    

10:15 AM CST 2/24/25 Reply

I understand your concerns and appreciate your communication. I believe the documents included in my filing are highly relevant and directly address the discovery misconduct issues raised. Help me understand the confidentiality designations for the documents you believe are confidential. As you mentioned, there are 14,000 documents, many of which are mine and were produced without any confidentiality designation—and look where that has led us. I have not used any discovery materials outside of this case, which unfortunately cannot be said for Fitzgerald. I will follow court procedures with these documents. With that, please explain the designation for each document please? including those that have been produced to third parties without designation.

-Ronda

**Ronda McNae** rona.mcnae@mcnae.com 10:24 AM CST 2/24/25 1 min    

10:24 AM CST 2/24/25 Reply

Ms. Gussin,

I apologize, but I do oppose your motion. I did not raise new arguments; I referenced items from prior filings, as well as in this filing, to provide context and explain the broader issue of misconduct.

Could you please clarify the confidentiality designations for the documents in question? I have noticed some discrepancies and am trying to understand your client's rationale. It seems that a number of documents listed as confidential may no longer qualify under that designation.

This needs to be addressed in the state case considering you have pointed to the discovery in this case with some designations that may no longer apply.

Regards,

Ronda

**Ronda McNae** <rona.mcnae@gmail.com> Sat Feb 1, 2025, 11:46 AM Done Apple ☆ 😊 ↩ ⋮  
to Meredith J. Gussin ▾

Ms. Gussin,

I found a prior filing that supports why I have copies of some emails that aren't marked confidential. Though you assume otherwise. I will alert the court. You still haven't answered the question below.

Could you please clarify the confidentiality designations for the documents in question? Why do you believe they are still protected? I would like to include in my motion.

Thanks,

Ronda

**From:** Meredith J. Gussin <mjguss@assoulineberlowe.com>  
**Sent:** Saturday, February 1, 2025 11:46:55 AM  
**To:** Ronda McNae <rona.mcnae@gmail.com>  
**Cc:** Will McNae <prosecutormcnae@gmail.com>; Peter E. Berlowe <PEB@AssoulineBerlowe.com>  
**Subject:** RE: Notice of Court Filing: Fitzgerald v. McNae Case No. 22-22171

What prior filing are you referring to?

The documents are confidential because they were marked confidential when produced in discovery and Plaintiff has not waived his designations.

**Meredith J. Gussin, Esq.**

**Ronda McNae** 10:01 AM 12:00 PM 2 days ago ☆ 😊 ↩ ⋮  
To: Ms. Gussin, Bill Rogers ▾

Ms. Gussin,

With all due respect, you're avoiding my question rather than addressing it directly. I have asked the same question several times now.

Please clarify the specific basis for why the confidentiality designations are appropriate, especially given where we are in the case. I am trying to understand your reasoning so I can determine whether any of them should be challenged.

Regards,  
Ronda

**Ronda McNae** 10:01 AM 12:00 PM 2 days ago ☆ 😊 ↩ ⋮  
To: Ms. Gussin, Bill Rogers ▾

Dear Ms. Gussin,

I am writing to confer with you regarding my request to obtain e-filing privileges in this matter.

As you are aware, I have been required to file all documents manually, which creates unnecessary delays and additional burdens. Given the volume of filings and the need to efficiently litigate this case, I intend to seek leave of Court to file electronically pursuant to Southern District of Florida Local Rule 5.1 and Administrative Order 2023-7.

Please confirm whether you oppose my request for e-filing privileges. If you oppose, please provide your basis so that I may include your position in my motion to the Court.

Additionally, I intend to file a motion regarding the Confidentiality Designations regarding certain documents that have been improperly designated as "Confidential" under the Protective Order. These documents do not contain trade secrets, proprietary business information, or personally sensitive data and have been misused to obstruct discovery and suppress key evidence.

Please advise whether you oppose this motion as well. If you do, I request that you provide your legal basis for maintaining these confidentiality designations so that I may address it in my motion.

I appreciate your prompt response, as I plan to file sometime early next week.

1) Oppose e-filing privileges?  
2) Confidentiality Designations? Provide your position and the legal basis please.

Best regards,  
Ronda McNae

**From:** Meredith J. Gussin <[mjgussin@assoulinebertowe.com](mailto:mjgussin@assoulinebertowe.com)>  
**Sent:** Sunday, February 2, 2025 7:10:08 AM  
**To:** Ronda McNae <[ronda.mcnae@gmail.com](mailto:ronda.mcnae@gmail.com)>; Peter E. Berlowe <[PEB@AssoulineBertowe.com](mailto:PEB@AssoulineBertowe.com)>; Will McNae <[willmcnae@gmail.com](mailto:willmcnae@gmail.com)>  
**Subject:** Re: Conferral Regarding E-Filing Request

We will provide you with our response by close of business tomorrow. Thank you.

**Ronda McNae** <[ronda.mcnae@gmail.com](mailto:ronda.mcnae@gmail.com)>  
to: Meredith Gussin (MJ) <[mjgussin@assoulinebertowe.com](mailto:mjgussin@assoulinebertowe.com)>  
Ms. Gussin,

To keep this straightforward, do you oppose my Motion to Challenge the Confidentiality Designations? A simple yes or no will suffice.

Additionally, do you oppose my Motion to Request E-Filing Privileges?

I will be filing a Motion to Strike, as I previously mentioned. There are also several issues concerning expert testimony that I intend to bring to the Court's attention, though I am still determining the best course of action.

Furthermore, I have uncovered additional evidence that further supports my concerns regarding harassment and intimidation through Instagram. I will follow up with the motion I intend to file on this issue.

Considering I gave you my position and you deflected any response to my prior emails, please provide your position on these motions by 12PM your time tomorrow.

Regards,

Ronda McNae

**From:** Ronda McNae <[rmcnae@assoulineberlowe.com](mailto:rmcnae@assoulineberlowe.com)>  
**Sent:** Sunday, February 2, 2025 8:51 PM  
**To:** Meredith J. Gussin <[mjgussin@assoulineberlowe.com](mailto:mjgussin@assoulineberlowe.com)>; Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>; Will McNae <[wmcnae@assoulineberlowe.com](mailto:wmcnae@assoulineberlowe.com)>  
**Subject:** Conferral Regarding Additional Evidence supporting DE 275

Ms. Gussin,

Pursuant to Local Rule 7.1(a)(3), I am reaching out to confer regarding my intent to file a **Notice of Additional Evidence in Support of Defendant's Motion to Dismiss (DE 275)**. Since filing my Reply in Support of the Motion to Dismiss, I have become aware of additional evidence of litigation misconduct that further supports dismissal.

This Notice is intended to ensure the Court has all relevant information before ruling on the pending Motion to Dismiss. Please advise whether you oppose or do not oppose the filing of this Notice.

I kindly request a response by 12PM Tuesday, so I may include your position in the Certificate of Conferral. If I do not receive a response by that time, I will indicate in my filing that a good-faith attempt to confer was made, but no response was received.

Thank you for your time and attention to this matter.

Best regards,  
Ronda McNae

**From:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Sent:** Monday, February 3, 2025 4:41 AM  
**To:** Ronda McNae <[rmcnae@assoulineberlowe.com](mailto:rmcnae@assoulineberlowe.com)>; Meredith J. Gussin <[mjgussin@assoulineberlowe.com](mailto:mjgussin@assoulineberlowe.com)>; Will McNae <[wmcnae@assoulineberlowe.com](mailto:wmcnae@assoulineberlowe.com)>  
**Subject:** RE: Conferral Regarding Additional Evidence supporting DE 275

Sure. Call whenever you have time, so we can have a meaningful meet and confer.

Peter E. Berlowe, Esq.

Sent: Monday, February 3, 2025 9:51 AM

To: Peter E. Berlowe <PEB@AssoulineBerlowe.com>; Meredith J. Gussin <[meredith.gussin@assoulineberlowe.com](mailto:meredith.gussin@assoulineberlowe.com)>; Will McNae <[will.mcnae@assoulineberlowe.com](mailto:will.mcnae@assoulineberlowe.com)>

Subject: Re: Conferral Regarding Additional Evidence supporting DE 275

Counsel,

I acknowledge your request for a phone conferral. However, given the history of our communications and dynamics, I will only communicate in writing to ensure clarity, accuracy, and a complete record of discussions. I respectfully request that all correspondence be conducted via email or formal court filings.

I will wait until 12:00PM ET Tuesday, before submitting my filings (stayed below) to allow you an opportunity to provide a written response.

For the prior motions I have emailed requesting your sides position, I request a response by 12PM ET today as I have given proper time considering the back and forth email correspondence.

Lastly, I was advised to keep all communications in writing, especially given my recent submission of information to regulatory authorities.

Regards,

Ronda

**From:** Peter E. Berlowe <PEB@AssoulineBerlowe.com>  
**Sent:** Monday, February 3, 2025 7:01:56 AM  
**To:** Ronda McNae <[prosecutor@assoulineberlowe.com](mailto:prosecutor@assoulineberlowe.com)>  
**Cc:** Keisha Hall <[keisha.hall@assoulineberlowe.com](mailto:keisha.hall@assoulineberlowe.com)>; Meredith J. Gussin <[meredith.gussin@assoulineberlowe.com](mailto:meredith.gussin@assoulineberlowe.com)>  
**Subject:** RE: Conferral Regarding Additional Evidence supporting DE 275





Dear Mrs. McNae:

We cannot confer in any way when you do not give any specifics. We do not know your arguments. We do not know the bates numbers of the pages you are referring to. Meet and confer is not a game of pulling teeth. We should have to guess what you are trying to argue. Please provide details.

I am copying Mr. McNae's counsel, because he is represented by counsel in the State Court case, and we do not want to have a communication with someone we know to be represented by counsel. I would ask that you stop copying him on this case, if you don't want us to copy his counsel on our replies.

Sincerely,

Peter E. Berlowe, Esq.

**Ronda McNae** McNae Law Firm, PLLC 02/25/25 10:11 AM    

1 - Ronda McNae

Counsel,

I have made multiple good-faith efforts to confer under **Local Rule 7.1(a)(3)** regarding my intent to file the following motions:

1. **Motion for E-Filing Privileges** – Due to the ongoing difficulties of manually filing documents, I am requesting permission from the Court to file electronically through CM/ECF to ensure efficiency and timely filings.
2. **Motion to Challenge Confidentiality Designations** – I have repeatedly requested clarification as to Plaintiffs' confidentiality designations and have not received sufficient justification. As such, I intend to formally challenge certain confidentiality designations that appear improper or selectively applied.

For the above motions, please advise by **12:00 PM ET today** whether you oppose or do not oppose.

Additionally, I am conferring regarding my **Notice of Additional Evidence in Support of Defendant's Motion to Dismiss (DE 275)**, which addresses new evidence of litigation misconduct, including:

- The withholding of key materials from expert witnesses.
- Improper surveillance of my social media accounts (additional individuals)
- Selective disclosure of documents to experts.
- Discrepancies in the expert witness transcript, raising concerns about accuracy etc.

Conferral does not require me to provide a full legal brief or Bates numbers, only a reasonable summary of the nature of my filing. I have clearly stated the basis for my filings, and any further details will be provided in the actual motions submitted to the Court.

Please advise by **12:00 PM ET on Tuesday** whether you oppose or do not oppose the filing of this Notice.

If I do not receive a response by the respective deadlines, I will indicate in my filings that I made a good-faith attempt to confer, but opposing counsel failed to provide a position.

Regarding your request that I cease copying Mr. McNae on communications: As I previously stated, the federal court has ordered me to include him on case-related emails, and I will continue to comply with the Court's directive. If you have concerns about this, I suggest you address them with the Court rather than attempt to impose unilateral restrictions. To clarify, the federal court order applies strictly to the federal case and has no impact on the state court action. This order was issued when Will was represented by Richard Gomez in the state matter. Ms. Casey previously informed Will that if Mr. Gomez were representing him in the federal case, then all federal case-related emails would be sent to him. However, we ensured this was not the case.

Advise on your position to the above motions, thank you.

Regards,  
Ronda McNae



From: Peter E. Berlowe <PEB@AssoulineBerlowe.com>  
Sent: Monday, February 3, 2025 8:04:42 AM  
To: Ronda McNae <[ronda.mcnae@assouline.com](mailto:ronda.mcnae@assouline.com)>  
Cc: Meredith J. Gussin <[meredith.gussin@assouline.com](mailto:meredith.gussin@assouline.com)>; Keisha Hall <[keisha.hall@assouline.com](mailto:keisha.hall@assouline.com)>  
Subject: RE: Conferal Regarding Additional Evidence supporting DE 275

Dear Mrs. McNae:

Thank you for your email but it is very light on details. How can we confer with you on a confidentiality designation if you refuse to give us the bates number of the document? We cannot read your mind.

How can we confer with you about withholding "key materials" from expert witnesses if you don't tell us what the "key materials" are?

How can we confer with you about this alleged "improper surveillance" of your public social media accounts or identify the individuals? If your referring to me, yes I recently looked at your account to see whether you are continuing to violate the confidential settlement agreement. We will continue to monitor your public social media accounts, as there is nothing improper at doing so.

What "selective disclosure" of documents are you referring to? Which documents? What bates numbers?

What discrepancies in expert witness transcripts? Which transcripts? What line and page should we look at?

Confer in good faith please.

Sincerely,

**Peter E. Berlowe, Esq.**

Ronda McNae  
See attached

8:07

Meredith J. Gussin Jan 31  
To You and Peter E. Berlowe

What other bodies are you referring to?

The documents that were marked confidential are pages 18-20, 22, 24-27 of your reply brief at Exhibit B. Can you advise where you found those documents as the bates labels have been redacted?

As to new arguments those include reference to Neil Lomax and my husband, Grant Gussin; allegations regarding SEC violations, providing a timeline to Dr DiTomasso, and Ms. De Varona's affidavit. These were not included in your initial motion and are, therefore, beyond the scope of what is appropriate in a reply brief.

Get Outlook for iOS

**From:** Meredith J. Gussin <[REDACTED]>  
**Sent:** Monday, February 3, 2025 8:40 AM  
**To:** Ronda McNae <[REDACTED]>; Peter E. Berlowe <PEB@AssoulineBerlowe.com>  
**Cc:** Keisha Hall <[REDACTED]>  
**Subject:** RE: Conferral Regarding Additional Evidence supporting DF 275

**Ronda,**

The attached email includes those documents that you produced in your Reply brief that we had disclosed as confidential in discovery. You advised that you received copies of those documents via "snapshot." I am not sure what that means, but if you could provide us with the bates label of the documents you included at pages 18-20, 22, 24-27 of your Reply, we can have a meaningful conferral.

As to your request to e-file, the Administrative Procedures of the Southern District of Florida CM/ECF provides at Section 2c: "Pro se litigants will not be permitted to register as Users at this time and must file their documents in the conventional manner."

This is Court procedure, and it is not something an attorney can agree to. As stated previously, your request is not within our purview to grant.

**Meredith J. Gussin, Esq.**  
**Litigation**

**Ronda McNae** is a writer and editor who has worked for several years in the publishing industry. She is currently a freelance writer and editor, and has written and edited a number of books and articles. She is also a frequent speaker at conferences and seminars.

1. *Chlorophyll a* and *Chlorophyll b* were determined by the method of Lichtenthaler and Whistler (1973).



1. *Chlorophyll a* and *Chlorophyll b* were determined by the method of Arar and Collins (1971) using a Shimadzu 1601 UV-Visible Spectrophotometer.

Counsel,

Regarding e-filing privileges, I have written to the Judicial Conference of the United States to advocate for meaningful reform. While I will (very) soon have counsel appearing in my case (which moots my request for your position), my experience underscores the significant prejudice faced by pro se litigants. My case serves as a compelling example of the systemic disparities, especially for those without legal insurance—unlike myself, who now has two policies—or the financial resources to sustain prolonged litigation.

The substantial costs I have personally incurred in filing and managing this case further highlight the urgent need for reform. I am committed to continuing this advocacy to ensure that future litigants are not subjected to the same inequities.

Lastly, it is counsel for SoftwareONE, not you, Peter, that I have observed lurking around my Instagram account. While my profile is public, a valid account must still be signed in to view my stories, as those are only accessible to signed-in users. This collective behavior is troubling, particularly given my recent reports to regulatory bodies and the concerns surrounding the IPO. It further underscores the broader pattern of concerning conduct in this case.

-Ronda

# Exhibit 17

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO.: 1:22-cv-22171-JEM

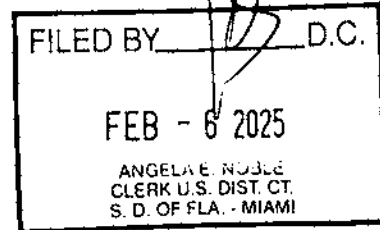
MICHAEL FITZGERALD,  
individually, and YELANY DE VARONA,  
individually,

Plaintiffs,

v.

RONDA MCNAE, individually, and  
WILLIAM MCNAE, individually,

Defendants.



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**DEFENDANT'S MOTION TO CHALLENGE CONFIDENTIALITY DESIGNATIONS**

Defendant Ronda McNae, appearing pro se, moves this Court to strike the improper confidentiality designations applied by Plaintiff Michael Fitzgerald to certain documents produced in discovery. Plaintiff's misuse of confidentiality designations is part of a broader pattern of discovery misconduct aimed at suppressing unfavorable evidence and obstructing Defendant's ability to present her case. These actions violate both the Agreed Protective Order and Rule 26(c) of the Federal Rules of Civil Procedure. "These designations violate Rule 26(c) of the Federal Rules of Civil Procedure and the **Agreed Protective Order Governing the Use and Disclosure of Protected Material (Exhibit A)** because they:

1. Suppress evidence contradicting Plaintiff's claims regarding his separation from SoftwareONE.
2. Obstruct discovery of SoftwareONE's internal findings, which validate Defendant's prior misconduct reports.
3. Hinder Defendant's ability to litigate fairly by improperly restricting the use of non-confidential materials.

Defendant seeks relief under Paragraph 5 of the Protective Order, which allows challenges to confidentiality designations.

### **I. INTRODUCTION**

Plaintiff improperly designated documents as Confidential to shield damaging evidence rather than to protect any legitimate business interest. These documents contain:

- Plaintiff's employment and voluntary separation from SoftwareONE.
- SoftwareONE's internal findings regarding Plaintiff's conduct.

#### **No Legitimate Basis for Confidentiality**

- The Agreed Protective Order (Paragraph 6) explicitly prohibits the designation of entire document productions as confidential.
- The challenged emails contain no trade secrets, proprietary business information, or personally sensitive data and do not meet the Rule 26(c) standard for confidentiality.

- Plaintiff has already disclosed these emails to expert witnesses, waiving any claim of confidentiality.
- Plaintiff has relied on DE 211 and related filings that incorporate these very documents, further undermining their confidentiality claims.

Accordingly, Defendant respectfully requests that the Court strike these improper confidentiality designations.

## **II. BACKGROUND**

This motion arises from Plaintiff Michael Fitzgerald's improper designation of certain discovery materials as "Confidential" under the Agreed Protective Order. Rather than serving a legitimate legal or business interest, these confidentiality designations have been strategically applied to suppress unfavorable evidence, obstruct discovery, and disadvantage Defendant Ronda McNae in these proceedings.

During a prior hearing, Honorable Judge Becerra explicitly warned counsel against the improper or overly broad application of confidentiality designations. Honorable Judge Becerra stated, "You can't just say everything in the case is attorneys' eyes only. I've never heard of that." The judge emphasized that confidentiality designations, particularly "attorneys' eyes only," must be narrowly tailored and supported by legitimate reasons under the Agreed Protective Order and Rule 26(c) standards.

Honorable Judge Becerra further cautioned that, "If you're too broad on that brush, I'll hear from you then." The judge highlighted that inappropriate over-designation of documents would result in unnecessary litigation and judicial intervention to resolve disputes. (*See Below*)

MS. POTIU WOJTONICZ: Here asked for all documents produced to be attorneys' eyes only.

THE COURT: Well, there's no way you can have a protective order that says that, right? Typically, in a protective order, it says things can be marked attorneys' eyes



only

You can't just say everything in the case is attorney's eyes only. I've never heard of that, Counsel. But if there's documents that you're producing and you want to limit it to attorney's eyes only and you're too broad on that brush, I'll hear from you then.

You know, if Microsoft is going to produce documents in this case, then they're going to produce them to the parties. I mean, they're not going to be subject to an attorney's eyes only provision as the third party unless you come up with some other terms to do so.

But I caution you to not be too low on the attorney's eyes only because these cases typically would require some -- I could envision documents that would be appropriate for them to be attorney's eyes only.

Don't broad [sic] them with too broad of a brush, or we're going to be spending a lot of time together going through documents and having me rule that they are or not attorney's eyes only because -- obviously, we'll do that if the brush that's painted on them is too broad.

Despite explicit warnings from the Court, Plaintiff continues to abuse confidentiality designations by indiscriminately applying them to entire categories of documents without legitimate basis. This improper conduct shields routine business documents and internal investigations from disclosure, creating unnecessary burdens for both the Court and Defendant, and forcing costly and time-consuming challenges that could have been avoided through proper application of the protective order.

#### **A. Plaintiff Misuses of Confidentiality Designations**

Plaintiff improperly designated routine business communications, investigative findings, and internal correspondence as "Confidential," despite these documents containing no trade secrets, proprietary business information, or privileged legal communications. These documents primarily relate to:

- **Plaintiff's employment and voluntary separation from SoftwareONE.**
- **SoftwareONE's internal investigation into Plaintiff's conduct.**
- **Communications between SoftwareONE leadership concerning allegations against Plaintiff.**

Under Rule 26(c) of the Federal Rules of Civil Procedure, confidentiality protections are limited to materials containing trade secrets, proprietary business practices, or privileged legal

advice. The challenged documents do not meet this standard. Instead, these materials provide critical evidence contradicting Plaintiff's claims and revealing SoftwareONE's independent findings regarding his conduct.

Moreover, SoftwareONE's refusal to provide Fitzgerald with its investigation results demonstrates that these findings were not part of a joint legal strategy and should not be protected under a common legal interest privilege. Courts have repeatedly held that confidentiality cannot be used to shield unfavorable evidence, particularly when the information has already been selectively disclosed to certain parties.

### **B. Plaintiff's Selective Use of Confidentiality and Discovery Materials**

Plaintiff's approach to confidentiality designations has been inconsistent and strategically self-serving. On one hand, he seeks to withhold damaging evidence by applying broad and improper confidentiality designations. On the other, he has selectively disclosed materials produced in this federal case in separate state court litigation to gain an unfair advantage.

For example:

1. **Plaintiff has introduced discovery materials from this federal case in a separate lawsuit against Will McNae.**
  - These materials include internal Microsoft HR communications, workplace investigations, and other sensitive employer-employee records.
  - Plaintiff's use of these materials in an unrelated legal proceeding contradicts his claims that similar records in this case should remain confidential.
2. **Plaintiff disclosed select discovery materials to his expert witness while withholding full email threads.**
  - This selective disclosure distorts the evidentiary record and denies access to critical context.
  - Courts have consistently rejected such tactics as improper discovery abuse.
3. **Despite Judge Becerra's prior warnings against over-designation, Plaintiff continues to broadly and unjustifiably apply confidentiality claims.**

- Plaintiff's attorneys have previously been cautioned about excessive confidentiality designations and until now, Defendant has sought to avoid unnecessary litigation costs by not challenging each document individually before Judge Becerra.
- Despite this, Plaintiff continues to abuse confidentiality claims to suppress key documents while simultaneously exploiting non-designated materials in collateral litigation.

These actions highlight the bad-faith nature of Plaintiff's confidentiality designations. Instead of being used to protect legitimate confidential information, these designations serve as a litigation tactic to suppress unfavorable evidence while selectively benefiting from the discovery process.

### **C. SoftwareONE's Failure to Log or Disclose Relevant Documents**

Adding to the issue, SoftwareONE has refused to disclose critical documents regarding Plaintiff's employment separation and prior allegations against him. Despite acknowledging the existence of certain records before Judge Becerra, SoftwareONE has:

- Failed to log key investigative findings on its privilege log.
- Improperly withheld documents concerning allegations of misconduct involving Plaintiff.
- Suppressed records related to *Doe v. SoftwareONE*, a prior lawsuit alleging a toxic workplace culture that protected high-level executives such as Plaintiff.

SoftwareONE's refusal to produce these documents raises serious concerns about its compliance with federal discovery rules and further undermines the legitimacy of its confidentiality claims. Courts have repeatedly held that selective non-disclosure and improper confidentiality designations constitute discovery misconduct. Accordingly, this motion seeks to correct these abuses by striking improper confidentiality designations, compelling full disclosure of relevant materials, and ensuring that Plaintiff does not gain an unfair litigation advantage through selective and inconsistent application of confidentiality protections.

## **III. LEGAL STANDARD**

Plaintiff and SoftwareONE may attempt to justify their confidentiality designations by invoking the common legal interest doctrine. However, this argument is meritless. Courts have consistently held that for the common legal interest doctrine to apply, the parties must share a current, active, and mutual legal defense strategy—not merely a past relationship or aligned business interest.

#### **A. Improper Confidentiality Designations Under Rule 26(c)**

Plaintiff's misuse of confidentiality designations is part of a broader strategy to suppress unfavorable evidence while engaging in improper surveillance and intimidation tactics outside the discovery process. Defendant has identified clear instances of unauthorized monitoring of her private social media accounts by Plaintiff's counsel and associates, raising serious ethical and procedural concerns. The Court should address this misconduct as part of its ruling on Plaintiff's bad-faith litigation tactics.

- Rule 26(c) limits confidentiality protections to documents containing:
  1. Trade secrets.
  2. Proprietary business information.
  3. Privileged legal communications.
- The *Kaplan v. Nautilus Ins. Co.* decision confirms that routine corporate discussions do not qualify for confidentiality protection.

#### **B. The Common Legal Interest Doctrine Does Not Apply Here:**

1. SoftwareONE conducted an independent internal investigation into Plaintiff's conduct, which ultimately resulted in Fitzgerald voluntarily separating from SoftwareONE UK in February 2023.
2. SoftwareONE refused to provide Fitzgerald with its investigation results, proving there was no shared legal strategy.
3. SoftwareONE's suppression of *Doe v. SoftwareONE* records suggests a deliberate effort to withhold damaging information rather than a legitimate confidentiality interest.

Relevant Case Law:

- *United States v. Patel*, 509 F. Supp. 3d 1334, 1344 (S.D. Fla. 2020) (“A shared desire to see the same outcome in a legal matter is not sufficient to establish a common legal interest.”)
- *Del Monte Int’l GMBH v. Ticofrut, S.A.*, 2017 WL 1709784, at 4 (S.D. Fla. May 2, 2017) (rejecting a common interest claim when parties no longer had aligned legal goals)

### **C. No Ongoing Common Legal Interest Exists**

- SoftwareONE conducted an independent internal investigation into Fitzgerald’s conduct, which resulted in his voluntary separation in February 2023.
- SoftwareONE refused to provide Fitzgerald with the investigation results, demonstrating that it does not share a privileged legal relationship with him.
- Courts have held that retroactively claiming a common legal interest after legal objectives have diverged is improper. (*Del Monte*, 2017 WL 1709784 at 7).

Because SoftwareONE’s findings were not developed in coordination with Plaintiff for a joint legal strategy, these confidentiality designations must be stricken.

## **IV. PLAINTIFF’S MISUSE OF DISCOVERY MATERIALS**

### **A. Selective Disclosure to Experts Distorts the Evidentiary Record**

- Plaintiff disclosed certain emails to expert witness Sheri Fiske while withholding full email threads from Defendant.
- This violates Rule 26(g), which prohibits misleading discovery practices.
- Selective production waives confidentiality protections for related materials. (*United States v. Patel*, 509 F. Supp. 3d at 1344).

### **B. Plaintiff Has Weaponized Discovery Materials in Unrelated Litigation**

- Fitzgerald has improperly used confidential discovery materials from this case in a separate state court lawsuit against Will McNae.

- Confidentiality protections cannot be exploited for an unfair tactical advantage (\**Kaplan*, 2018 WL 6445886 at 2).

### C. Public Policy Requires Disclosure

The Sunshine in Litigation Act was enacted to prevent precisely this type of misconduct, where confidentiality designations are weaponized to conceal evidence of wrongdoing and undermine public accountability. Courts in Florida have consistently enforced this policy to ensure fairness and transparency in litigation.

**Public Policy Concerns Under Florida’s Sunshine Law** – Florida’s Sunshine in Litigation Act (Fla. Stat. § 69.081) prohibits confidentiality agreements or designations that conceal evidence of misconduct or harm to the public. Courts applying this law routinely reject overbroad confidentiality claims that shield evidence of wrongdoing or prevent public awareness of significant issues, such as workplace harassment or misconduct. SoftwareONE’s and Plaintiff’s improper designations and refusal to produce findings contravene this public policy by suppressing records that:

- Reveal pre-existing allegations against Plaintiff involving workplace misconduct.
- Validate Defendant’s concerns about systemic issues at SoftwareONE, including a “boys’ club” culture that shielded executives from accountability.
- Contain information critical to understanding the broader context of Plaintiff’s reputational damage.

By improperly designating documents and refusing to produce relevant records, Plaintiff and SoftwareONE are attempting to suppress evidence that could benefit not only Defendant but also the public interest. Courts have held that such practices violate the principles of transparency and accountability embedded in Florida’s Sunshine Law. Defendant respectfully requests that the Court strike these designations and compel full disclosure to ensure compliance with both the Protective Order and public policy.

- Florida’s Sunshine in Litigation Act (Fla. Stat. § 69.081) prohibits confidentiality agreements that suppress evidence of misconduct.

- Courts reject strategic confidentiality designations that conceal misconduct from the public. (Del Monte, 2017 WL 1709784).

**D. Plaintiff's Misuse of Microsoft HR Emails** – Plaintiff has improperly weaponized sensitive internal communications between Microsoft's Human Resources department and Will McNae. These communications, obtained solely through discovery in this federal action, were misused in collateral state court litigation to bolster Plaintiff's claims against Will McNae. Such misuse is directly at odds with the principles of fair discovery and violates the Agreed Protective Order. These emails were:

- Highly sensitive and private communications concerning workplace investigations.
- Explicitly limited to this litigation and not intended for use in unrelated legal matters.
- Exploited to create undue prejudice, causing significant harm to Defendant's ability to defend herself and her family in multiple jurisdictions.

This misuse underscores Plaintiffs' strategic manipulation of the discovery process to gain an unfair advantage, in clear violation of the intent and terms of the Protective Order.

**E. Misuse of Highly Sensitive Discovery Materials in Collateral Litigation** – Plaintiff's misuse of highly sensitive discovery materials produced in this federal action to advance his separate state court case against Will McNae is a clear abuse of the discovery process and a violation of the principles underlying judicial efficiency and fairness. Although the documents Plaintiff used in the state court action were not designated confidential at the time of production, Judge Becerra previously cautioned the parties about the over-designation of documents and the burdens associated with challenging each document individually. Defendant, in an effort to avoid unnecessary litigation costs, refrained from challenging the designation of every document before Judge Becerra. Despite this, Plaintiff has now exploited these materials in state court, including sensitive internal workplace communications between Will McNae and Microsoft's Human Resources and investigative team. These documents:

- Were obtained solely through discovery in this federal litigation.



- Contain private employer-employee communications that are highly sensitive in nature.
- Have been improperly used to entangle unrelated legal proceedings for a strategic advantage.

**Improper Use of Internal Communications** – Among the exhibits Plaintiff introduced in state court are internal emails between Microsoft and Will McNae’s HR department, which were:

- Not publicly available.
- Only accessed due to the discovery process in this federal action.
- Clearly intended for internal investigative and employment-related matters due to an ongoing investigation.

These communications should have remained protected from misuse in collateral litigation, but Plaintiff weaponized them to bolster his claims against Will McNae, in direct contradiction of the principles of fair discovery.

**Plaintiff’s Strategic Exploitation of Defendant’s Email** – Additionally, Plaintiff has introduced an email written by Defendant Ronda McNae as evidence in the state court case against Will McNae.

- Plaintiff’s use of this email is a clear attempt to entangle separate legal proceedings and expand litigation beyond the intended scope of this case.
- By doing so, Plaintiff has demonstrated that his litigation strategy is not focused on the merits of his claims but rather on overwhelming Defendants with duplicative, costly, and procedurally abusive tactics.

**F. Plaintiff’s Contradictory Position on Confidentiality** – The exploitation of non-confidential but highly sensitive discovery materials in collateral litigation—particularly private HR communications, workplace investigations, and unrelated internal discussions—is fundamentally unfair and a blatant manipulation of the discovery process. Despite Plaintiff’s own misuse of discovery materials outside this courtroom, he now seeks to challenge confidentiality designations on documents that are being used exclusively in this case, which he initiated.



Plaintiff has:

- Contradicted his own position on confidentiality by exploiting materials from this federal action in separate litigation.
- Weaponized sensitive internal communications from Microsoft's HR and investigative team to improperly entangle legal proceedings.
- Engaged in procedural gamesmanship by increasing litigation burdens and costs on Defendants, despite claiming to be concerned about improper disclosure.

**G. Plaintiff's Double Standard on Confidentiality** – Plaintiff's actions reveal a blatant double standard regarding the application of confidentiality protections. While Plaintiff seeks to impose sweeping confidentiality designations on documents unfavorable to him—effectively suppressing key evidence needed by Defendant—he simultaneously misuses discovery materials produced in this federal litigation to advance his claims in other jurisdictions. For example:

- Documents designated as "Confidential" are withheld from Defendant in this case, despite containing evidence critical to her defense.
- Plaintiff has used non-designated discovery materials, such as Microsoft HR communications, to litigate in state court, while insisting that similar materials produced in this case remain protected.

This inconsistent application of confidentiality protections undermines the fairness and integrity of these proceedings. As the court noted in *Kaplan v. Nautilus Ins. Co.*, 2018 WL 6445886 (S.D. Fla. 2018), parties cannot use confidentiality as both a sword and a shield. Plaintiff's bad-faith tactics must be curtailed to ensure procedural fairness.

## **V. SOFTWAREONE'S PRIVILEGE ABUSE & DISCOVERY MISCONDUCT**

SoftwareONE's refusal to log critical documents related to Plaintiff's conduct is a clear violation of Rule 26(b)(5), which requires a privilege log identifying withheld documents. During prior proceedings, SoftwareONE's counsel acknowledged the existence of relevant records, including those connected to "Doe v. SoftwareONE," yet these documents were neither logged nor produced. Courts in this district, including in *Del Monte Int'l GMBH v. Ticofrut, S.A.*, 2017 WL 1709784 (S.D. Fla. May 2, 2017), have consistently held that a failure to log documents constitutes

discovery misconduct. The withheld documents include investigative findings that directly contradict Plaintiff's claims, communications revealing a "boys' club" workplace culture, and evidence of pre-existing reputational harm to Plaintiff. These omissions are not minor oversights but deliberate acts to shield unfavorable evidence. The Court should compel production of these documents and sanction SoftwareONE for its bad faith conduct in discovery.

#### **A. SoftwareONE's Failure to Log or Disclose Relevant Documents**

Adding to the issue, SoftwareONE has refused to disclose critical documents regarding Plaintiff's employment separation and prior allegations against him. Despite acknowledging the existence of certain records before Judge Becerra, SoftwareONE has:

- Failed to log key investigative findings on its privilege log.
- Improperly withheld documents concerning allegations of misconduct involving Plaintiff.
- Suppressed records related to Doe v. SoftwareONE, a prior lawsuit alleging a toxic workplace culture that protected high-level executives such as Plaintiff.

SoftwareONE's refusal to produce critical documents raises serious concerns about its compliance with federal discovery rules and further undermines the legitimacy of its confidentiality claims. Courts have consistently held that selective non-disclosure and improper confidentiality designations constitute discovery misconduct, especially when such actions appear to be strategically motivated. In this case, the investigation at issue was conducted by Jenny Martinez's firm, based in the United States, whose involvement raises questions about the impartiality of the findings. Furthermore, members associated with this investigation, including Michael McCabe, who has appeared in numerous discovery-related emails, have engaged in intimidating and harassing behavior toward Defendant Ronda McNae via social media. These actions lead Defendant to believe that SoftwareONE and its representatives are monitoring this litigation closely, knowing their conduct and actions are highly relevant to the claims at issue.

The situation is particularly concerning given SoftwareONE's ongoing corporate activity, including its announced plans for a secondary listing in Oslo, its acquisition of Norwegian firm Crayon, and its strategic partnership with ServiceNow to modernize IT solutions in the cloud. These developments highlight the company's significant international business interests, which may further incentivize the concealment of damaging or potentially harmful internal

communications and records. Defendant has reason to believe that the confidentiality designations and non-disclosure tactics are being used not only to obstruct this litigation but also to protect SoftwareONE's public image and business dealings during this critical period of corporate activity.

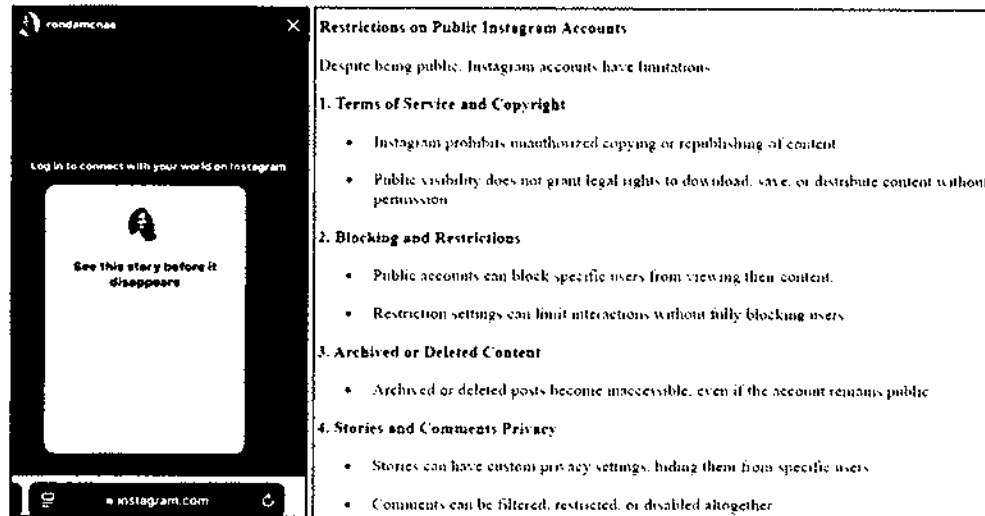
Defendant is increasingly concerned about retaliation due to the disclosures made in recent filings, particularly in light of SoftwareONE's concerted efforts with Fitzgerald surrounding the company's IPO and post-IPO activities. The information brought to light in this litigation implicates multiple individuals who failed to take corrective action despite being aware of the underlying issues. The conduct of key figures such as Michael McCabe and former SoftwareONE President Neil Lomax, who have actively monitored Defendant's social media account; Instagram, raises serious concerns regarding targeted intimidation and instills fear in the McNae family. The use of improper surveillance, including the creation of fake accounts and the use of third-party accounts to monitor Defendant's private social media activity, underscores Plaintiff's intent to intimidate and gain access to information that has not been lawfully obtained through discovery.

#### MICHEAL MCCABE SOFTWAREONE INC. COUNSEL



#### NEIL LOMAX PRESIDENT OF SOFTWAREONE

Such behavior, combined with SoftwareONE's prior legal maneuvers—including the filing of a retaliatory lawsuit against McNae in Wisconsin after she subpoenaed the company—demonstrates a pattern of attempting to silence and intimidate those seeking accountability. Only known accounts logged in can see Ronda McNae's stories (See Below).



Given these circumstances, Defendant is concerned that documents critical to discovery requests, including those related to workplace culture, investigations into Plaintiff's conduct, and allegations of misconduct, may not have been preserved or produced in compliance with federal discovery obligations. Accordingly, this motion seeks to address these abuses by striking improper confidentiality designations, compelling full disclosure of relevant materials, and ensuring that Plaintiff does not gain an unfair litigation advantage through selective and inconsistent application of confidentiality protections. To protect the integrity of this litigation and prevent further retaliation, Defendant respectfully requests that the Court issue an order<sup>1</sup>.

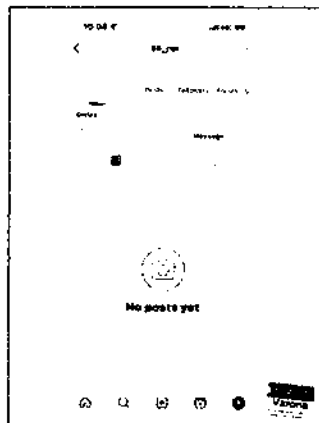
FURTHERMORE, Ms. Gussin's assertion that the public nature of Defendant's Instagram profile eliminates any expectation of privacy is both legally flawed and a selective misrepresentation of the law. This argument ignores key limitations on public Instagram profiles

- <sup>1</sup> Compelling SoftwareONE to certify that it has preserved all relevant documents, including communications related to internal investigations and IPO-related activities involving Fitzgerald.
- Prohibiting any further retaliatory actions against Defendant or her family, including through frivolous legal maneuvers or intimidation tactics.
- Requiring SoftwareONE to disclose any communications or actions taken to suppress or retaliate against Defendant in response to her discovery efforts.

In the event of further non-compliance, Defendant reserves the right to file a separate motion to enforce preservation obligations and to seek appropriate sanctions under Federal Rules of Civil Procedure 26 and 37.

and is intended as a distraction from Plaintiff's own misuse of confidentiality designations. The Court should focus on Plaintiff's bad-faith discovery practices and improper confidentiality claims, which have significant implications under Federal Rules of Civil Procedure 26(g) and 37(b). Plaintiff's selective enforcement of confidentiality standards, mischaracterization of social media privacy settings, and contradictory litigation behavior highlight their bad faith tactics. This Court should reject Plaintiff's baseless argument about social media privacy and instead scrutinize their misuse of confidentiality designations and procedural abuses. Plaintiff's litigation conduct warrants further scrutiny for the improper and inconsistent application of legal principles, with consequences under relevant procedural rules.

This isn't the first instance of stalking and harassment that Defendant has faced in this litigation. Previously, Plaintiff's wife, Yelany De Verona, created a fake Instagram account to stalk Defendant. During her deposition, Yelany De Verona initially denied creating the fake account and had multiple opportunities to be forthcoming. However, it was only after a convenient break in her deposition that she admitted to creating the account *(See Below)*. Thankfully, Defendant anticipated such behavior and preserved evidence by taking screenshots.

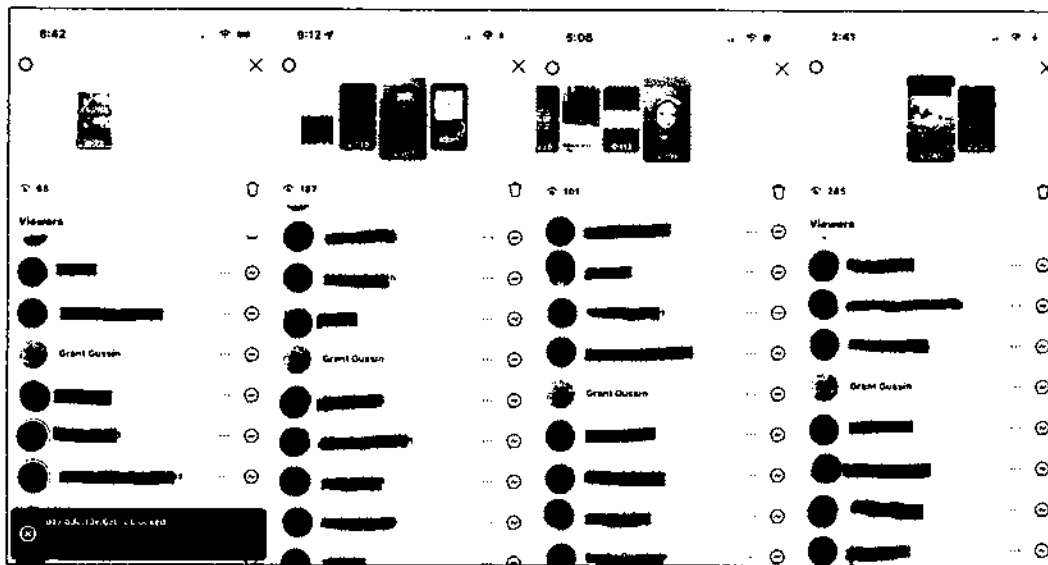


### YEALNY DE VERONA-FITZGERLADS FAKE ACCOUNT

Defendant discovered further evidence suggesting that Plaintiff's counsel, Meredith Gussin, utilized Grant Gussin's Instagram account to improperly monitor Defendant's social media activity. Screenshots *(See Below)* demonstrating that Grant Gussin's account has viewed multiple posts and stories on Defendant's private Instagram account, despite the account being restricted and inaccessible to unknown individuals without approval. This conduct appears to bypass Defendant's privacy restrictions, constituting an apparent attempt to intimidate, monitor, or harass

Defendant outside of legitimate discovery procedures. Such actions may also violate ethical rules governing attorneys, particularly Florida's Rules of Professional Conduct, Rule 4-8.4, which prohibits conduct involving dishonesty or fraud. When viewed in the context of Plaintiff's history of retaliatory litigation practices, this evidence underscores the pattern of improper and intrusive methods employed by Plaintiff and his counsel to gain an unfair advantage, including selectively weaponizing discovery materials and engaging in inappropriate online surveillance.

#### GRANT GUSSIN



#### B. SoftwareONE Improperly Withheld the "Doe v. SoftwareONE" Records

- Defendant subpoenaed SoftwareONE for records related to Doe v. SoftwareONE, a known legal matter involving allegations of a "boys' club" culture.
- These records were never produced, despite prior admissions by SoftwareONE's counsel that they existed.
- The failure to log these documents suggests intentional suppression of unfavorable evidence.

As courts have repeatedly held, confidentiality cannot be abused to obstruct discovery or conceal unfavorable information (Del Monte, 2017 WL 1709784). These records likely corroborate longstanding allegations against Plaintiff and directly relate to his claims of reputational harm. By withholding them, SoftwareONE has deprived Defendant of key evidence critical to her defense.



### **Sanctions Under Rule 37(b) and Rule 26(g)**

Plaintiffs' and SoftwareONE's conduct in discovery necessitates sanctions under Federal Rules of Civil Procedure 37(b) and 26(g). Rule 37(b) permits sanctions when a party fails to comply with a court order, including a protective order. SoftwareONE's refusal to log, produce, or adequately address withheld documents, coupled with its disregard for the Agreed Protective Order, constitutes noncompliance warranting sanctions. Rule 26(g) further prohibits discovery practices that are inconsistent with good faith, requiring counsel to certify that all discovery responses are accurate, complete, and justified. Plaintiffs' overbroad and unjustified confidentiality designations, as well as their selective disclosure of critical materials, violate this rule and undermine the integrity of the discovery process. Sanctions are necessary to address these abuses, deter future misconduct, and prevent further prejudice to Defendant.

### **VI. CONCLUSION AND RELIEF REQUESTED**

Plaintiff's misuse of confidentiality designations, combined with retaliatory lawsuits and improper surveillance, demonstrates a concerted effort to obstruct discovery, intimidate Defendant, and gain an unfair advantage. Defendant respectfully requests this Court to strike improper designations, compel full disclosure of relevant documents, and impose sanctions to deter further misconduct. For the foregoing reasons, Plaintiff's improper confidentiality designations and selective misuse of discovery materials constitute a blatant abuse of the discovery process. These actions violate Rule 26(c), the Agreed Protective Order, and public policy as embodied in Florida's Sunshine in Litigation Act. Plaintiff's overbroad designations, coupled with his strategic exploitation of sensitive materials, have obstructed Defendant's ability to fairly litigate this matter while increasing the burdens on the Court and the discovery process. Defendant respectfully requests the Court strike the improper confidentiality designations, compel full production of withheld documents, and impose sanctions under Rules 37(b) and 26(g) to deter further discovery misconduct.

To preserve the integrity of these proceedings and ensure compliance with the Federal Rules of Civil Procedure, Defendant respectfully requests that the Court grant the following relief:

1. **Strike Improper Confidentiality Designations:** Order that all improperly designated documents identified in this motion be reclassified as non-confidential, allowing their full and fair use in these proceedings.

2. **Compel Full Production:** Compel Plaintiff to produce all documents withheld under improper confidentiality designations, including but not limited to the investigative findings and internal communications referenced herein.
3. **Impose Sanctions:** Pursuant to Rules 37(b) and 26(g), sanction Plaintiff for his discovery misconduct, including the improper confidentiality designations, selective disclosures, and misuse of discovery materials. Sanctions should include an award of costs and fees incurred by Defendant in addressing this misconduct, as well as any other measures necessary to deter future violations.
4. **Preclude Use of Improperly Designated Materials:** Preclude Plaintiff from relying on improperly designated documents or selectively disclosed materials in any future motions or at trial.
5. **Cease Improper Surveillance and Monitoring:** Issue an order directing Plaintiffs and their counsel to cease any improper surveillance or monitoring of Defendant's private social media accounts, including the use of fake or third-party accounts, as such actions are intended to intimidate and harass Defendant. While Peter Berlowe asserts that he checks Defendant's social media accounts to monitor for alleged breaches of the CSA, he fails to acknowledge that his client, Michael Fitzgerald, has himself breached the same agreement. This selective enforcement cannot continue to be used as a means to silence Defendant, particularly given that Fitzgerald voluntarily produced the CSA in this case without a confidentiality designation and introduced it in unrelated litigation in Seattle, WA. By doing so, Fitzgerald waived any claim of confidentiality and undermined his own argument. This misuse of the agreement, paired with the continued harassment and surveillance, demonstrates a bad-faith attempt to suppress Defendant's ability to litigate fairly and intimidate her into silence. Such conduct must not be condoned by this Court.
6. **Additional Relief as Appropriate:** Grant any further relief the Court deems just and proper to remedy Plaintiff's bad-faith tactics and ensure procedural fairness.

Defendant seeks the Court's intervention to prevent further abuse of the discovery process, ensure transparency in litigation, and uphold the principles of fairness and justice.



Dated: February 4, 2025



By: Ronda Delapina McNae  
Pro Se Defendant  
504 11<sup>th</sup> PL Kirkland, WA 98033  
Tel: (206) 914-6752  
Prose.mcnae@gmail.com

### **CERTIFICATE OF CONFERRAL**

Pursuant to Local Rule 7.1(a)(3), Defendant certifies that she engaged in active communication with Plaintiffs' counsel, Meredith Gussin and Peter Berlowe, regarding this motion between January 31 and February 3, 2025 (**Exhibit B**). During this time, Defendant sought Plaintiffs' position on Challenging the Confidential Designations. Despite repeated inquiries, Ms. Gussin refused to provide a definitive answer and instead prolonged the conferral process. Given that Plaintiffs historically oppose any motion that does not align with their litigation strategy, and given their refusal to state their position clearly, Defendant assumes Plaintiffs oppose this motion. Accordingly, Defendant submits this motion for the Court's consideration.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 4, 2025, a true copy of the foregoing Motion was sent via FedEx to the Clerk of the Court, Southern District of Florida, 400 N. Miami Ave, Room 8N09, Miami, FL 33128, and Plaintiff's counsel, in compliance with pro se litigant requirements.

#### **SERVICE LIST**

Peter E. Berlowe, Esq.  
Meredith Gussin, Esq.  
Assouline & Berlowe, P.A.  
Miami Tower  
100 SE 2nd Street, Suite 3105  
Miami, FL 33131  
Tel: 305-567-5576  
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[peb@assoulineberlowe.com](mailto:peb@assoulineberlowe.com)  
[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)  
*Counsel for Plaintiffs*

# Exhibit A

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

Case No. 1:22-cv-22171-JEM

**MICHAEL J. FITZGERALD,**  
**individually,**

Plaintiff,

v.

**RONDA MCNAE, individually,**

Defendant.

**AGREED PROTECTIVE ORDER GOVERNING  
THE USE AND DISCLOSURE OF PROTECTED MATERIAL**

IT IS ORDERED that an Agreed Protective Order Governing the Use and Disclosure of Protected Material ("Order") is entered as follows:

**GENERAL PROVISIONS**

1. **Scope.** This Order shall govern all Documents, materials, and information disclosed during the course of this Action in any form including, but not limited to, Documents, discovery responses, materials, and information produced or provided by a Party or Non-Party, disclosed through testimony, or contained in pleadings, motions, briefs, or other materials presented to or filed with the Court that are designated as Protected Materials (defined below) in this case.

A. No person or entity shall use, disclose, make available, transmit, or otherwise communicate Protected Material in any manner whatsoever except for purposes of this Action, including appeals, and then only in a manner consistent with this Order.

B. A Party's or Non-Party's use for any purpose of its own Documents, information, and testimony which it produces or discloses in the Action shall not be considered a violation of this Order. A Party's own information and testimony does not include information or testimony learned from or based upon any other Party or Non-Party's Protected Material produced in this Action.

**2. Definitions.** As used in this Order, the following terms shall have the meanings set forth below:

- a. "Action" shall mean the above-captioned litigation.
- b. "Party" and "Parties" shall mean any and all named parties in this Action.
- c. "Non-Party" shall mean any individual, corporation, association, or other natural person or entity that is not a named Party to the Action.
- d. "Document" is intended to be comprehensive and includes any and all materials and information in the broadest sense, and shall include electronically stored information, software, paper records, transcripts, including all non-identical copies of the foregoing, whether different from the originals by reason of any notation made on such copies or otherwise. Document includes Protected Material (defined below).
- e. "Privilege" shall mean the attorney-client privilege, the work-product doctrine, spousal privilege, the common-interest or joint-defense doctrine, and/or any other privilege, protection, or immunity recognized by applicable law.

- f. "Confidential Material" means any Document, or any portion thereof, which is or contains confidential or proprietary business, commercial, research, personnel, personal health, process, product, or financial information of the producing Party or Non-Party that does not fall within the Attorney's Eyes Only designation. A Party or Non-Party designating information as Confidential Material shall mark each page of the Document containing such material as "Confidential." A Party or Non-Party shall not designate pages of a Document that do not contain Confidential Material as "Confidential" and a Party or Non-Party shall not designate entire productions as "Confidential."
- g. "Attorney's Eyes Only Material" means any Document, or any portion thereof, which a Party or Non-Party reasonably believes to be so highly sensitive that it is the subject of reasonable efforts to maintain its secrecy above and beyond the protections provided for Confidential Material, subject to objection by any party and a determination by the Court as to whether the material is appropriately designated as "Attorney's Eyes Only Material." A Party or Non-Party designating information as Attorney's Eyes Only Material shall mark each page of the Document containing such material as "Highly Confidential—Attorney's Eyes Only." A Party or Non-Party shall not designate pages of a Document that do not contain Attorney's Eyes Only Material as "Highly Confidential—Attorney's Eyes Only" and a Party or Non-Party shall not designate entire productions as "Highly Confidential—Attorney's Eyes Only."

- h. "Protected Material" means Confidential Material, Attorney's Eyes Only Material, or Foreign Private Data, collectively.

### **DISCLOSURE OF PROTECTED MATERIAL**

**3. Confidential Material.** Subject to all other terms of this Order, Confidential Material may be disclosed only to:

- a. the Parties;
- b. if the Confidential Material was produced by a Non-Party, then the Non-Party that produced the Confidential Material;
- c. the attorneys for the Parties and/or Non-Parties involved in this Action, including the partners, associates, paralegals, and clerical personnel working under the direct supervision of such counsel and that are directly involved in or assisting with this Action;
- d. the Court and all persons assisting the Court in the Action, including special masters, mediators, court reporters taking testimony involving such information, and necessary stenographic and clerical personnel thereof, in accordance with the procedures set forth in this Order;
- e. persons retained as consultants, experts or support personnel (such as litigation support vendors) by any Party and/or Non-Party for the purposes of this Action and the principals and employees associated with those firms and who are directly involved and assisting in this Action; provided that the procedures set forth in paragraph 7 below have been followed;

- f. persons whom the Confidential Material itself indicates were the author, source, or recipient of the Document;
- g. any other person hereafter designated by written stipulation between the Parties, or with a Non-Party; and
- h. any person noticed or called to testify as a witness at a deposition, hearing, or trial in the Action, subject to the protections of paragraphs 11, and 13.

4. **Attorney's Eyes Only Material.** Subject to all other terms of this Order, Attorney's Eyes Only Material may be disclosed only to:

- a. The Parties' attorneys involved in this Action, including the partners, associates, paralegals, and clerical personnel working under the direct supervision of such counsel and that are directly involved in or assisting in this Action;
- b. The Court and all persons assisting the Court in the Action, including special masters, mediators, court reporters taking testimony involving such information, and necessary stenographic and clerical personnel thereof, in accordance with the procedures set forth in this Order;
- c. Any person who is retained by a Party or its attorneys of record in this litigation as an independent expert for the purpose of this litigation and who agrees in writing to be bound by the terms of this Order;
- d. Persons whom the Attorney's Eyes Only Material itself indicates were the author, source, or recipient of the Document;
- e. any person called to testify as a witness at a deposition, hearing, or trial in the Action, subject to the protections of Paragraph 11 and 13.

- f. Any other person hereafter designated by written stipulation between the Parties, or with a Non-Party, or by further order of the Court.

**5. Limited Disclosure of Protected Material.** Any Document, designated portions of deposition testimony, responses to interrogatories, requests for admissions, or requests for production of documents which are marked as “Confidential” or “Highly Confidential—Attorney’s Eyes Only” are to be treated as such by the Party receiving the Document and shall be utilized by such Party only for the prosecution or defense of this case. No Party is obligated to challenge the propriety of any information designated as Confidential Information or Highly Confidential—Attorneys’ Eyes Only Information, and a failure to do so in this Action does not preclude a subsequent attack on the propriety of the designation. In the event that any Party to this Action disagrees at any stage of the proceedings with the designation of information as “Confidential” or “Highly Confidential—Attorney’s Eyes Only,” the Party shall first try to resolve the matter on an informal basis. If the dispute cannot be resolved informally, the Party challenging the confidentiality of the information may apply for appropriate relief from this Court. Each Party or the producing Non-Party shall be given notice and reasonable time (not less than three (3) business days) to respond to the requested relief. The Party or producing Non-Party claiming confidentiality shall have the initial burden of establishing confidentiality.

**6. Designating Documents and Information as Protected Material.** Any Party or producing Non-Party may designate as “Confidential” or “Highly Confidential—Attorney’s Eyes Only” Documents or responses to interrogatories, requests for admission, or requests for production of documents by stamping or labeling the document or response as “Confidential” or “Highly Confidential—Attorney’s Eyes Only.” Documents or responses



shall not be treated as “Confidential” or “Highly Confidential—Attorney’s Eyes Only” pursuant to this Order unless they are stamped or labeled as such. The inadvertent failure to designate material as “Confidential” or “Highly Confidential—Attorney’s Eyes Only” does not preclude a Party or Non-Party from subsequently making such a designation, and, in that case, the material is to be treated as “Confidential” or “Highly Confidential—Attorney’s Eyes Only” only after being properly designated. The Parties and their counsel shall not photocopy any Protected Material unless such photocopies are needed as part of this litigation. Documents produced by Non-Parties shall be treated as Confidential or Attorney’s Eyes Only for an initial period of twenty (20) days to allow either Party the opportunity to review documents and make additional designations, where necessary. Subject to paragraph 14, after the period of twenty (20) days from the date of the Non-Parties’ production of documents, all documents not designated as Protected Material by the Non-Party or either Party will be deemed not to be Confidential or Attorney’s Eyes Only Material.

7. **Obtain Acknowledgement.** Prior to disclosure of any Protected Material to any person identified in paragraphs 3(e), (g) or 4(c) such person shall be given a copy of this Order and shall certify via a written acknowledgement, that he/she has read and understands this Order and agrees to comply with its terms. The Party providing Protected Material to such person shall retain the signed statement of each such person. Such statements shall be produced to counsel for the opposing party or the producing Non-Party upon written request.

#### **USE OF PROTECTED MATERIAL**

8. **Use of Protected Material.** Protected Material shall be used only in connection with this Action and any appeals arising therefrom. No Protected Material shall be disclosed to any other person, entity, agency, print or electronic media, social media or anyone outside of

this proceeding, for any purpose, other than as set forth in this Order. No Party shall directly or indirectly post any Confidential or Attorneys Eyes Only Material or content contained therein on the internet or otherwise subject such material to public disclosure. ***Doing so may be sanctionable conduct, in the discretion of the Court.*** ***Provided that*** nothing in this Order shall preclude any Party or Non-Party from providing Protected Material that is evidence of unlawful or criminal behavior to the relevant law enforcement authorities. Absent further Court Order, the fact that Protected Material has been provided to law enforcement does not otherwise remove its designation as Protected Material or allow for any additional disclosure except for as provided in this Order.

**9. Maintaining Confidentiality.** The recipient of any Protected Material provided pursuant to this Order shall maintain such Protected Material in a secure and safe area. The recipient shall take care that any such information or the content of such information, or notes and memoranda relating thereto, not be disclosed to anyone other than persons described in Paragraphs 3 and 4 herein.

**10. Filing Confidential Information.** In the event a Party wishes to use any Protected Material in affidavits, declarations, briefs, memoranda of law, or other papers filed in this Action, the Party shall do one of the following: (1) obtain the consent of the producing Party or Non-Party; (2) where appropriate (e.g., in connection with discovery and evidentiary motions) provide the information solely for *in camera* review; or (3) file such information under seal or with confidentiality protection as provided by the Court under Southern District of Florida Local Rule 5.4(b)(1).

**11. Protected Material in Depositions.** Any Party shall have the right to use Protected Material during depositions, provided that no third parties to whom such Protected Material is not permitted to be disclosed are present during such depositions.

12. At any deposition session, upon inquiry with regard to the content of a document marked "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES ONLY" whenever counsel for a Party deems that a question and/or the answer to any question has resulted in the disclosure of Protected Material, the deposition (or portions) may be designated by the affected Party as containing Protected Material subject to the provisions of this Order. When such designation has been made, the testimony or the transcript of such testimony shall be disclosed only to those parties described in Paragraph 3 and 4 for Confidential Information and Attorneys' Eyes Only Information, respectively, and the information contained shall be used only as specified in this Order. Parties (and deponents) may, within thirty (30) days after receiving the transcript of a deposition, designate portions of the transcript (and exhibits thereto) as Protected Material. Protected Material within the deposition transcript may be designated by a letter to opposing counsel indicating the portions of the transcript that are "Confidential" or "Highly Confidential—Attorney's Eyes Only." Until expiration of the 30-day period, the entire transcript will be treated as Confidential Material under this Order. If no Party or deponent timely designates Protected Material in a deposition, then none of the transcript or its exhibits (other than those previously designated) will be treated as Protected Material. There shall be no need to redesignate documents or exhibits which have been previously designated as Protected Material.

**13. Protected Material at Trial.** Subject to the Federal Rules of Evidence, Protected Material may be offered in evidence at trial or any Court hearing. Any Party or producing

Non-Party may move the Court for an Order that Protected Material receive additional protections.

**14. Inadvertent Failure to Designate Confidential Materials.** The inadvertent failure of a Party or Non-Party to designate discovery materials as Confidential Information, Attorneys' Eyes Only Information, or Foreign Private Data as such (whether in the form of documents, interrogatories, testimony, or otherwise) shall not be deemed, by itself, to be a waiver of the Party's or Non-Party's right to so designate such discovery materials as Confidential Information or Highly Confidential—Attorneys' Eyes Only Information. Immediately upon learning of any such inadvertent failure, the producing Party or Non-Party shall notify all receiving parties of such inadvertent failure and take such other steps as necessary to correct such failure after becoming aware of it. Disclosure by a receiving party of such discovery materials to any other person prior to later designation of the discovery materials in accordance with this paragraph shall not violate the terms of this Order. However, immediately upon being notified by a producing Party or Non-Party of an inadvertent failure to designate, the receiving party shall treat such information as though properly disclosed and take any actions necessary to prevent further disclosure.

**15. Inadvertent Production of Privileged Materials.** Pursuant to Fed. R. Evid. 502, there is no waiver of Privilege or work-product in this matter or any other matter in any other jurisdiction for the inadvertent or unintentional production of documents or information containing information which should have been designated as privileged if the producing Party or Non-Party took reasonable steps to prevent disclosure and also took reasonable steps to rectify the error. The producing Party or Non-Party will be deemed to have taken reasonable steps to prevent communications or information from inadvertent disclosure if that Party or Non-Party utilized

attorney screening, keyword search term screening, advanced analytical software applications and/or linguistic tools or other reasonable means in screening for Privilege, work product or other protection. The producing Party or Non-Party shall be deemed to have taken reasonable steps to rectify the error if, within thirty (30) days of discovery, the producing Party or Non-Party notifies the receiving Party of the inadvertent disclosure and instructs the receiving Party to promptly return all copies of the inadvertently produced communications or information (including any and all work product containing such communications or information). Upon receiving such notice, the receiving Party shall return all copies of such information to the producing Party or Non-Party within seven (7) business days of such request unless the receiving Party intends to challenge the producing Party's or Non-Party's assertion of Privilege or immunity. If a receiving Party objects to the return of such information within the seven (7) business day period described above, the producing Party or Non-Party may move the Court for an order compelling the return of such information. Pending the Court's ruling, a receiving Party may retain the inadvertently or unintentionally produced documents in a sealed envelope (if document is produced in physical form) and shall not make any use of such information.

**16. Data Privacy.** This matter is also subject to a Data Privacy Order. (Exhibit A). The Data Privacy Order governs the designation and treatment of "Private Foreign Data," defined therein. The Data Privacy Order is incorporated herein by reference, and the procedures contained in the Data Privacy Order not explicitly addressed by this Protective Order shall control how Foreign Private Data shall be treated in this proceeding.

**17. Return of Protected Material.** Upon the final determination of this Action, including the expiration of time for any further appeals, whether by judgment, settlement, or otherwise, and after a request from the opposing Party or producing Non-Party:

- a. Counsel of record for each Party receiving Protected Material shall, within sixty (60) days, destroy or return to the designating Party or Non-Party all such documents containing Protected Material and all notes, memoranda, copies, abstracts, excerpts, or other parts, except that all materials constituting work product of such counsel shall be destroyed by the Party in possession; and
- b. Counsel of record for each Party shall confirm in writing that all Protected Material, documents and things, together with all notes, copies, abstracts, memoranda, excerpts, or other parts, have been returned to the producing Party or Non-Party or destroyed in accordance with the terms of this Order.

## MISCELLANEOUS PROVISIONS

**18. Information Not Confidential.** The Parties will not designate as Protected Material any Documents or materials that they have reason to believe, or should have reason to believe, was generally known or readily available to the public prior to its designation, or is not properly designated as Protected Material under this Order. Moreover, in the event that a designating party becomes aware that a Document or material designated as Protected Material is or has become generally known to the public through no fault of the receiving party, or that it was known to the receiving party prior to its designation, or that it was disclosed to the receiving party without restrictions, or that it was developed by the receiving party without reference to the disclosures by the designating party, then the designating party will immediately rescind its designation and give notice of such rescission to the other parties.

**19. No Admission.** Nothing in this Order shall be construed as an admission as to the relevance, authenticity, foundation, or admissibility of any document, material, transcript, or other information.

20. **No Waiver of Privilege.** This Order will not prejudice the right of any Party or Non-Party to oppose production of any information on the ground of Privilege.

**21. Other Actions and Proceedings.** If a receiving party (a) is subpoenaed in another action or proceeding, (b) is served with a demand in another action or proceeding in which it is a party, or (c) is served with any legal process by one not a party to this Order, seeking discovery materials which were produced or designated as Protected Material pursuant to this Order, the receiving party shall give prompt actual written notice by hand or facsimile transmission to counsel of record for such producing Party or Non-Party within five (5) business days of receipt of such subpoena, demand or legal process or such shorter notice as may be required to provide the producing Party or Non-Party with the opportunity to object to the immediate production of the requested discovery materials to the extent permitted by law. Should the person seeking access to the Confidential Information or Attorneys' Eyes Only Information take action against the receiving party or anyone else covered by this Order to enforce such a subpoena, demand or other legal process, the receiving party shall respond to the extent permissible under applicable law by setting forth the existence of this Order.

**DONE** and **ORDERED** in Chambers at Miami-Dade County, Florida on this 2nd day of December, 2022.

HONORABLE JACQUELINE BECERRA

## Exhibit A

## DATA PRIVACY ORDER

Plaintiff Michael Fitzgerald and Defendant Ronda McNae stipulate and agree that the terms and conditions of this Data Privacy Order shall govern the handling of Foreign Private Data, as defined herein, disclosed in connection with this matter, and for good cause, IT IS HEREBY ORDERED AS FOLLOWS:

1. This matter is subject to an Agreed Protective Order Governing the Use and Disclosure of Protected Material (the "Protective Order"). The Protective Order governs the designation and treatment of "Confidential Material," defined therein. The Protective Order is incorporated herein by reference, and the procedures contained in the Protective Order not explicitly addressed by this Data Privacy Order shall control how Foreign Private Data shall be treated in this proceeding.

2. "Foreign Private Data" means any personal or private information or third-party business secret that a producing Party or Non-Party believes in good faith to be subject to foreign (i.e., non-U.S.) data protection laws or other foreign privacy or third-party business secrecy obligations, and that would be protected from discovery by a well-founded conclusion that producing the private or personal or third-party business secrecy information would violate such laws or obligations.

3. "Discovery Material" is all written material, electronic data, videotapes and all other tangible items, produced during this dispute, in whatever format (e.g., hard copy, electronic, digital, etc.) and on whatever media (e.g., hard copy, videotape, computer diskette, CD-ROM, DVD, by secure electronic transmission, hard drive or otherwise).



6. The receiving party shall maintain any Discovery Material that is provided under the Protective Order or under this Data Privacy Order and which contains Foreign Private Data that has not been redacted in a reasonably secure and safe manner that ensures that access is limited to the persons authorized under the Protective Order, and shall further exercise the same standard of due and proper care with respect to the storage, custody, use, or dissemination of such information as is exercised by the receiving party with respect to its own proprietary information.

15

8. The unintentional production of Discovery Material containing Foreign Private Data that has not been redacted shall not constitute a waiver of the protections authorized by this Order, or any other order of this Court, provided that the producing Party or Non-Party reasonably promptly notifies the receiving party, in writing, of the production after its discovery of the same. If the producing Party or Non-Party so notifies the receiving party, the receiving party shall treat the unintentionally produced Foreign Private Data as Confidential Material and apply the procedures set forth in the Protective Order.

9. The right to challenge and the process for challenging the designation or redactions of Foreign Private Data shall be the same as the right to challenge and the process for challenging Discovery Material designated as Protected Material, as set forth in the Protective Order.

10. Entry of this Order shall not prejudice the right of any Party or Non-Party to seek other or further relief from this Court or any other court, including, but not limited to, other protections necessary to produce Foreign Private Data or to comply with federal, state, or foreign data protection laws or other non-disclosure obligations.

# Exhibit B

Fitzgerald v. McNae 1000 x

↳ Meredith J. Gussin

$$| \mathbf{r}_i - \mathbf{r}_j |^2 = \sum_{\alpha=1}^3 (x_i^\alpha - x_j^\alpha)^2 = \sum_{\alpha=1}^3 (x_i^\alpha)^2 + \sum_{\alpha=1}^3 (x_j^\alpha)^2 - 2 \sum_{\alpha=1}^3 x_i^\alpha x_j^\alpha$$

Ms. McNae,

We are in receipt of your reply brief in Support of your Motion to Dismiss (DE 283). After review, it has come to light that you asserted new arguments that are beyond the scope of what was included in your Motion or our response. Additionally, you included several documents that were produced during discovery that were marked Confidential. Please advise if you would like to meet and confer on this; otherwise, we would like to file a brief 3-4 page surreply. Kindly advise if you have any opposition to us filing same. I look forward to hearing from you.

**Meredith J. Gussin, Esq.**

## Litigation

## Response to Your Concerns Regarding DE 283

**Ronda McNae** is a writer and editor in New York City.

*Journal of Management Education* 30(6)

Dear Ms. Gussin,

Thank you for your email regarding DE 283. I appreciate your attention to the details of my reply brief.

To clarify, the arguments raised in DE 283 are not entirely new but are rather expansions on the systemic discovery misconduct that I have consistently referenced throughout these proceedings. My intention was to provide the Court with additional context and evidence demonstrating the pattern of procedural violations and suppression tactics employed.

As for the "Confidential" documents you referenced, please identify specifically which ones you believe were improperly included. To my knowledge, the documents I cited were either supplied without a "Confidential" designation or were provided to your expert, Sheri Fiske, without retaining such designation, effectively removing their confidential status.

That said, I am open to a good-faith discussion to address your concerns. If we cannot resolve this matter informally over email, I would kindly request that you share your specific objections to facilitate a focused and productive exchange. As other bodies are now involved and looking into the matter (that go beyond this immediate litigation), email will have to suffice.

I look forward to your response.

Best regards,

Ronda McNae

On Fri, Jan 31, 2025 at 3:54 PM Meredith J. Gussin <[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)> wrote:

What other bodies are you referring to?

The documents that were marked confidential are pages 18-20, 22, 24-27 of your reply brief at Exhibit B. Can you advise where you found those documents as the bates labels have been redacted?

As to new arguments those include reference to Neil Lomax and my husband, Grant Gussin; allegations regarding SEC violations, providing a timeline to Dr DiTomasso, and Ms. De Varona's affidavit. These were not included in your initial motion and are, therefore, beyond the scope of what is appropriate in a reply brief.

Get Outlook for iOS

**From:** Ronda McNae <[ronda.mcnae@assoulineberlowe.com](mailto:ronda.mcnae@assoulineberlowe.com)>

**Sent:** Friday, January 31, 2025 7:08:24 PM

**To:** Meredith J. Gussin <[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)>

**Cc:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>

**Subject:** Re: Response to Your Concerns Regarding DE 283

Ms. Gussin,

A quick review confirms that you are mistaken regarding pages 24-27. I encourage you to carefully review your own production. I will locate the copies I received of pages 18-20 and 22 in the next few hours as I'm home with all the kids. If I inadvertently produced these and they were marked, I will rectify or call the chambers to figure out the best procedure in hopes to make an update immediately.

Additionally, what new arguments are you referring to? If I'm not in agreement with your assertion, I will move to strike your motion.

It is particularly ironic that the very documents you now claim are marked "confidential"—internal HR records I previously shared with Microsoft—have been weaponized against my family. This is especially troubling given that I exercised discretion in their disclosure, aligning with Honorable Magistrate Judge Becerra's guidance regarding overbroad designations.

Regarding other governing bodies, my position was made clear in my most recent filing in response to your premature request for a case management conference.

Regards,

Ronda

## Re: Response to Your Concerns Regarding DE 283

**Ronda McNae** <[ronda@assoulineberlowe.com](mailto:ronda@assoulineberlowe.com)>

Fri, Jan 31, 2025, 11:54 PM



to: Meredith J. Gussin

Ms. Gussin,

If your primary concern is the Grant Gussin issue, I am open to discussing a resolution, though I firmly believe it strongly supports my case. I want to approach this matter in good faith.

-Ronda

On Fri, Jan 31, 2025 at 4:10 PM Meredith J. Gussin <[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)> wrote:

If you disclosed those documents to Microsoft that is in violation of the protective order set in place in this case.

I listed the new arguments in my prior email.

**From:** Ronda McNae <[ronda@assoulineberlowe.com](mailto:ronda@assoulineberlowe.com)>

**Sent:** Friday, January 31, 2025 11:54:47 PM

**To:** Meredith J. Gussin <[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)>

**Cc:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>

**Subject:** Re: Response to Your Concerns Regarding DE 283

Drafting a motion now. please let me know the reason for the designations for these documents. I'm still searching for the first couple pages as the copies I have were snapshots (hence) not having the designation.

-Ronda

On Fri, Jan 31, 2025 at 8:01 PM Meredith J. Gussin <[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)> wrote:

What sort of resolution do you propose? That is not my primary concern. All the new issues remain equally of issue insofar as they are beyond the scope of your motion.

Additionally, will you be voluntarily seeking a removal from the docket of the confidential documents? If not, I believe it is proper for the court to rule on the propriety of your inclusion of protected material in direct violation of the protective order which sets forth the procedure to question or challenge any designation. Your belief that the documents are not confidential isn't sufficient.

**From:** Meredith J. Gussin <[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)>  
**Sent:** Saturday, February 1, 2025 6:09:49 AM  
**To:** Ronda McNae <[ronda.mcnae@gmail.com](mailto:ronda.mcnae@gmail.com)>  
**Cc:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Subject:** Re: Response to Your Concerns Regarding DE 283

The documents were designated as confidential in the discovery process. The documents you provided neither have this designation nor the bates label which raises our concerns.

Filing another motion by you does not answer whether or not you are opposed to plaintiff filing a surreply to address these issues. Can you please advise whether or not you are opposed to us filing a brief surreply at this time? Thank you.

**Ronda McNae** <[ronda.mcnae@gmail.com](mailto:ronda.mcnae@gmail.com)>  
to: Meredith J. Gussin <[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)>

Sat Feb 1 12:44 PM EST 2025



Ms. Gussin,

I apologize, but I do oppose your motion. I did not raise new arguments; I referenced items from prior filings, as well as in this filing, to provide context and explain the broader issue of misconduct.

Could you please clarify the confidentiality designations for the documents in question? I have noticed some discrepancies and am trying to understand your client's rationale. It seems that a number of documents listed as confidential may no longer qualify under that designation.

This needs to be addressed in the state case considering you have pointed to the discovery in this case with some designations that may no longer apply.





Regards,

Ronda

**From:** Meredith J. Gussin <[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)>  
**Sent:** Friday, January 31, 2025 8:01:06 PM  
**To:** Ronda McNae <[ronda.mcnae@gmail.com](mailto:ronda.mcnae@gmail.com)>  
**Cc:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Subject:** Re: Response to Your Concerns Regarding DE 283

What sort of resolution do you propose? That is not my primary concern. All the new issues remain equally of issue insofar as they are beyond the scope of your motion.





Additionally, will you be voluntarily seeking a removal from the docket of the confidential documents? If not, I believe it is proper for the court to rule on the propriety of your inclusion of protected material in direct violation of the protective order which sets forth the procedure to question or challenge any designation. Your belief that the documents are not confidential isn't sufficient.

**Ronda McNae** rdm@mcnae.com 10:48 AM - 2/24/25    

to: Wendy McRae

I understand your concerns and appreciate your communication. I believe the documents included in my filing are highly relevant and directly address the discovery misconduct issues raised. Help me understand the confidentiality designations for the documents you believe are confidential. As you mentioned, there are 14,000 documents, many of which are mine and were produced without any confidentiality designation—and look where that has led us. I have not used any discovery materials outside of this case, which unfortunately cannot be said for Fitzgerald. I will follow court procedures with these documents. With that, please explain the designation for each document please? including those that have been produced to third parties without designation.

-Ronda

**Ronda McNae** rdm@mcnae.com 10:48 AM - 2/24/25    

to: Wendy McRae

Ms. Gussin,

I apologize, but I do oppose your motion. I did not raise new arguments; I referenced items from prior filings, as well as in this filing, to provide context and explain the broader issue of misconduct.

Could you please clarify the confidentiality designations for the documents in question? I have noticed some discrepancies and am trying to understand your client's rationale. It seems that a number of documents listed as confidential may no longer qualify under that designation.

This needs to be addressed in the state case considering you have pointed to the discovery in this case with some designations that may no longer apply.

Regards,

Ronda



**Ronda McNae** <[prosec@mcnae.com](mailto:prosec@mcnae.com)>  
to Meredith J. Gussin <[pegg@assoulineberlowe.com](mailto:pegg@assoulineberlowe.com)>  
Sent: 1/31/25 11:41 AM  
Subject: RE: Notice of Court Filing: Fitzgerald v. McNae Case No. 22-22171

Ms. Gussin,

I found a prior filing that supports why I have copies of some emails that aren't marked confidential. Though you assume otherwise. I will alert the court. You still haven't answered the question below.

Could you please clarify the confidentiality designations for the documents in question? Why do you believe they are still protected? I would like to include in my motion.

Thanks,

Ronda

**From:** Meredith J. Gussin <[pegg@assoulineberlowe.com](mailto:pegg@assoulineberlowe.com)>  
**Sent:** Saturday, February 1, 2025 11:46:55 AM  
**To:** Ronda McNae <[prosec@mcnae.com](mailto:prosec@mcnae.com)>  
**Cc:** Will McNae <[prosec@mcnae.com](mailto:prosec@mcnae.com)>; Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Subject:** RE: Notice of Court Filing: Fitzgerald v. McNae Case No. 22-22171

What prior filing are you referring to?

The documents are confidential because they were marked confidential when produced in discovery and Plaintiff has not waived his designations.

**Meredith J. Gussin, Esq.**

**Ronda McNae** - [redacted]@gmail.com - Sat, Feb 1, 12:00 PM (7 days ago) ☆ 😊 ↩ ⋮  
to: [redacted] <[redacted]@[redacted]>  
Ms. Gussin,

With all due respect, you're avoiding my question rather than addressing it directly. I have asked the same question several times now.

Please clarify the specific basis for why the confidentiality designations are appropriate, especially given where we are in the case. I am trying to understand your reasoning so I can determine whether any of them should be challenged.

Regards,  
Ronda

**Ronda McNae** - [redacted]@gmail.com - Sat, Feb 1, 12:14 PM (7 days ago) ☆ 😊 ↩ ⋮  
to: [redacted] <[redacted]@[redacted]>  
Dear Ms. Gussin,

I am writing to confer with you regarding my request to obtain e-filing privileges in this matter.

As you are aware, I have been required to file all documents manually, which creates unnecessary delays and additional burdens. Given the volume of filings and the need to efficiently litigate this case, I intend to seek leave of Court to file electronically pursuant to Southern District of Florida Local Rule 5.1 and Administrative Order 2023-7.

Please confirm whether you oppose my request for e-filing privileges. If you oppose, please provide your basis so that I may include your position in my motion to the Court.

Additionally, I intend to file a motion regarding the Confidentiality Designations regarding certain documents that have been improperly designated as "Confidential" under the Protective Order. These documents do not contain trade secrets, proprietary business information, or personally sensitive data and have been misused to obstruct discovery and suppress key evidence.

Please advise whether you oppose this motion as well. If you do, I request that you provide your legal basis for maintaining these confidentiality designations so that I may address it in my motion.

I appreciate your prompt response, as I plan to file sometime early next week.

1) Oppose e-filing privileges?  
2) Confidentiality Designations? Provide your position and the legal basis please.

Best regards,  
Ronda McNae

**From:** Meredith J. Gussin <mjg@assoulineberlowe.com>

**Sent:** Sunday, February 2, 2025 7:10:08 AM

**To:** Ronda McNae <ronda.mcnae@gha.li.com>; Peter E. Berlowe <PEB@AssoulineBerlowe.com>; Will McNae <will.mcnae@gha.li.com>

**Subject:** Re: Conferral Regarding E-Filing Request

We will provide you with our response by close of business tomorrow. Thank you.

**Ronda McNae** <ronda.mcnae@gha.li.com>

Sun Feb 2 7:42 PM Today



to: Meredith Gussin (1) ▾

Ms. Gussin,

To keep this straightforward, do you oppose my Motion to Challenge the Confidentiality Designations? A simple yes or no will suffice.

Additionally, do you oppose my Motion to Request E-Filing Privileges?

I will be filing a Motion to Strike, as I previously mentioned. There are also several issues concerning expert testimony that I intend to bring to the Court's attention, though I am still determining the best course of action.

Furthermore, I have uncovered additional evidence that further supports my concerns regarding harassment and intimidation through Instagram. I will follow up with the motion I intend to file on this issue.

Considering I gave you my position and you deflected any response to my prior emails, please provide your position on these motions by 12PM your time tomorrow.

Regards,

Ronda McNae

**From:** Ronda McNae <[ronda.mcnae@gmail.com](mailto:ronda.mcnae@gmail.com)>  
**Sent:** Sunday, February 2, 2025 8:51 PM  
**To:** Meredith J. Gussin <[mjgussin@assouline.com](mailto:mjgussin@assouline.com)>; Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>; Will McNae <[wmcnae@gmail.com](mailto:wmcnae@gmail.com)>  
**Subject:** Conferral Regarding Additional Evidence supporting DE 275

Ms. Gussin,

Pursuant to Local Rule 7.1(a)(3), I am reaching out to confer regarding my intent to file a **Notice of Additional Evidence in Support of Defendant's Motion to Dismiss (DE 275)**. Since filing my Reply in Support of the Motion to Dismiss, I have become aware of additional evidence of litigation misconduct that further supports dismissal.

This Notice is intended to ensure the Court has all relevant information before ruling on the pending Motion to Dismiss. Please advise whether you oppose or do not oppose the filing of this Notice.

I kindly request a response by 12PM Tuesday, so I may include your position in the Certificate of Conferral. If I do not receive a response by that time, I will indicate in my filing that a good-faith attempt to confer was made, but no response was received.

Thank you for your time and attention to this matter.

Best regards,  
Ronda McNae

**From:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Sent:** Monday, February 3, 2025 4:41 AM  
**To:** Ronda McNae <[ronda.mcnae@gmail.com](mailto:ronda.mcnae@gmail.com)>; Meredith J. Gussin <[mjgussin@assouline.com](mailto:mjgussin@assouline.com)>; Will McNae <[wmcnae@gmail.com](mailto:wmcnae@gmail.com)>  
**Subject:** RE: Conferral Regarding Additional Evidence supporting DE 275

Sure. Call whenever you have time, so we can have a meaningful meet and confer.

Peter E. Berlowe, Esq.

Sent: Monday, February 3, 2025 9:51 AM

To: Peter E. Berlowe <PEB@AssoulineBerlowe.com>; Meredith J. Gussin <[meredith.gussin@assouline.com](mailto:meredith.gussin@assouline.com)>; Will McNae <[will.mcnae@assouline.com](mailto:will.mcnae@assouline.com)>

Subject: Re: Conferral Regarding Additional Evidence supporting DE 275

Counsel,

I acknowledge your request for a phone conferral. However, given the history of our communications and dynamics, I will only communicate in writing to ensure clarity, accuracy, and a complete record of discussions. I respectfully request that all correspondence be conducted via email or formal court filings.

I will wait until 12:00PM ET Tuesday, before submitting my filings (stayed below) to allow you an opportunity to provide a written response.

For the prior motions I have emailed requesting your sides position. I request a response by 12PM ET today as I have given proper time considering the back and forth email correspondence.

Lastly, I was advised to keep all communications in writing, especially given my recent submission of information to regulatory authorities.

Regards,

Ronda

**From:** Peter E. Berlowe <PEB@AssoulineBerlowe.com>  
**Sent:** Monday, February 3, 2025 7:01:56 AM  
**To:** Ronda McNae <procurmco@ymail.com>  
**Cc:** Keisha Hall <kehall@californialegal.com>; Meredith J. Gussin <mjg@assoulineberlowe.com>  
**Subject:** RE: Conferral Regarding Additional Evidence supporting DE 275

Dear Mrs. McNae:

We cannot confer in any way when you do not give any specifics. We do not know your arguments. We do not know the bates numbers of the pages you are referring to. Meet and confer is not a game of pulling teeth. We should have to guess what you are trying to argue. Please provide details.

I am copying Mr. McNae's counsel, because he is represented by counsel in the State Court case, and we do not want to have a communication with someone we know to be represented by counsel. I would ask that you stop copying him on this case, if you don't want us to copy his counsel on our replies.

Sincerely,

Peter E. Berlowe, Esq.



From: Peter E. Berlowe <PEB@AssoulineBerlowe.com>  
Sent: Monday, February 3, 2025 8:04:42 AM  
To: Ronda McNae <ronda.mcnae@assouline.com>  
Cc: Meredith J. Gussin <mjgussin@assouline.com>; Keisha Hall <keisha.hall@assouline.com>  
Subject: RE: Conferral Regarding Additional Evidence supporting DE 275

Dear Mrs. McNae:

Thank you for your email but it is very light on details. How can we confer with you on a confidentiality designation if you refuse to give us the bates number of the document? We cannot read your mind.

How can we confer with you about withholding "key materials" from expert witnesses if you don't tell us what the "key materials" are?

How can we confer with you about this alleged "improper surveillance" of your public social media accounts or identify the individuals? If your referring to me, yes I recently looked at your account to see whether you are continuing to violate the confidential settlement agreement. We will continue to monitor your public social media accounts, as there is nothing improper at doing so.

What "selective disclosure" of documents are you referring to? Which documents? What bates numbers?

What discrepancies in expert witness transcripts? Which transcripts? What line and page should we look at?

Confer in good faith please.

Sincerely,

**Peter E. Berlowe, Esq.**



Ronda McNae  
See attached

8:07

Meredith J. Gussin  
To You and Peter E. Berlowe  
Jan 21

What other bodies are you referring to?

The documents that were marked confidential are pages 18-20, 22, 24-27 of your reply brief at Exhibit B. Can you advise where you found those documents as the bates labels have been redacted?

As to new arguments those include reference to Neil Lomax and my husband, Grant Gussin; allegations regarding SEC violations, providing a timeline to Dr DiTomasso, and Ms. De Varona's affidavit. These were not included in your initial motion and are, therefore, beyond the scope of what is appropriate in a reply brief.

Get Outlook for iOS

**From:** Meredith J. Gussin <mjgussin@assoulineberlowe.com>  
**Sent:** Monday, February 3, 2025 8:40 AM  
**To:** Ronda McNae <ronda.mcnae@assoulineberlowe.com>; Peter E. Berlowe <PEB@AssoulineBerlowe.com>  
**Cc:** Keisha Hall <keisha.hall@assoulineberlowe.com>  
**Subject:** RE: Conferral Regarding Additional Evidence supporting DE 275

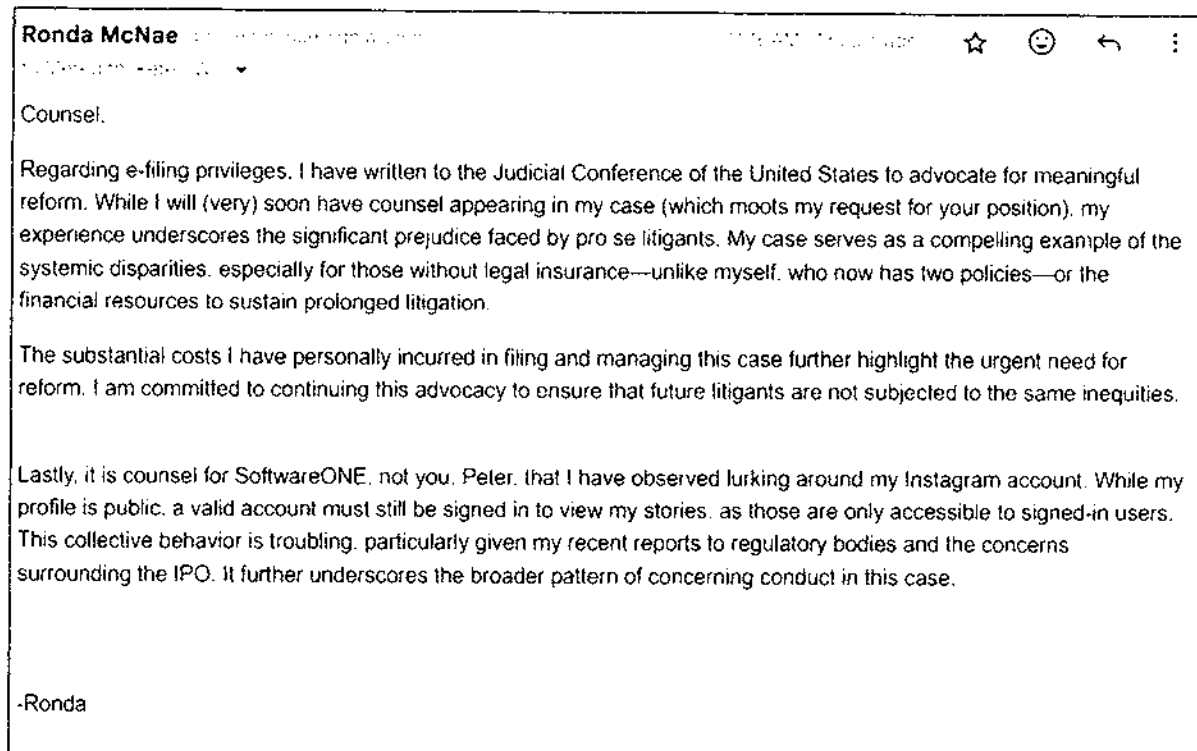
**Ronda,**

The attached email includes those documents that you produced in your Reply brief that we had disclosed as confidential in discovery. You advised that you received copies of those documents via "snapshot." I am not sure what that means, but if you could provide us with the bates label of the documents you included at pages 18-20, 22, 24-27 of your Reply, we can have a meaningful conferral.

As to your request to e-file, the Administrative Procedures of the Southern District of Florida CM/ECF provides at Section 2c: "Pro se litigants will not be permitted to register as Users at this time and must file their documents in the conventional manner."

This is Court procedure, and it is not something an attorney can agree to. As stated previously, your request is not within our purview to grant.

**Meredith J. Gussin, Esq.**  
**Litigation**



# Exhibit 18

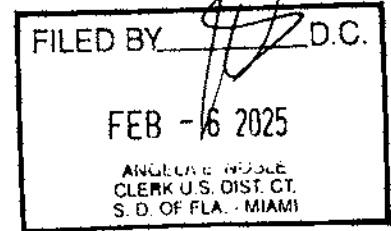
IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION  
CASE NO.: 1:22-cv-22171-JEM

MICHAEL FITZGERALD,  
individually, and YELANY DE VARONA,  
individually,

Plaintiffs,

v.

RONDA MCNAE, individually, and  
WILLIAM MCNAE, individually,  
Defendants.



**DEFENDANT RONDA MCNAE'S MOTION FOR LEAVE TO FILE  
ELECTRONICALLY USING CM/ECF OR, IN THE ALTERNATIVE, FOR  
PROCEDURAL ACCOMMODATIONS**

Defendant Ronda McNae, appearing pro se, respectfully moves this Court for an order granting her permission to electronically file documents using the Court's Case Management/Electronic Case Filing ("CM/ECF") system, pursuant to Rule 5(d)(3) of the Federal Rules of Civil Procedure and Local Rule 5.1 of the Southern District of Florida. In the alternative, should the Court determine that CM/ECF filing is restricted to attorneys, Defendant requests that she be granted alternative procedural accommodations to ensure she is not unfairly prejudiced by the limitations of manual filing, while opposing counsel benefits from electronic filing.

**I. INTRODUCTION**

1. Defendant is a pro se litigant required to submit filings manually via mail or in person, resulting in substantial delays, additional costs, and procedural disadvantages in the litigation process.
2. Plaintiff, represented by counsel, enjoys the benefit of **electronic filing privileges**, allowing for **instantaneous docketing** and service of filings—while Defendant must rely on manual filing and mail service, delaying the docketing process by **several days** and creating an **unfair litigation imbalance**.

3. If denied CM/ECF access, Defendant respectfully requests that the Court grant procedural accommodations to **level the playing field**, including:
  - a. Requiring **Plaintiff's counsel to serve all filings via email** in addition to mail.
  - b. Allowing **Defendant to submit filings via email to the Clerk** for docketing to prevent delays and loss of filings.
  - c. Mandating **simultaneous access** to case filings to prevent undue prejudice.

## **II. LEGAL STANDARD**

4. Rule 5(d)(3) of the Federal Rules of Civil Procedure grants courts the authority to permit electronic filing by pro se litigants where it would promote fairness and efficiency.
5. Local Rule 5.1 of the Southern District of Florida does not prohibit pro se litigants from obtaining CM/ECF access but leaves it to the Court's discretion.
6. In *Smith v. D.C.*, 430 F.3d 450, 457 (D.C. Cir. 2005), the court recognized that e-filing reduces administrative burdens, prevents delays, and ensures fair litigation practices.

## **III. PROCEDURAL DISADVANTAGE CAUSED BY DENYING CM/ECF ACCESS**

7. Opposing counsel has used procedural delays to gain an unfair advantage:
  - a. Plaintiff's counsel can instantly file documents and serve filings electronically at any time—including after business hours and on weekends—while Defendant's filings take several days to appear on the docket.
  - b. Plaintiff's counsel has previously filed motions to strike Defendant's filings before they even appeared on the docket, exploiting manual filing delays to gain an advantage.
8. Time Zone and Geographic Barriers:
  - a. Defendant resides in Seattle, Washington, while the Court is in Florida. This results in strict early filing deadlines, requiring Defendant to file and mail motions by 3:00 PM Pacific Time to meet delivery cutoffs.
  - b. Plaintiff's counsel, having unrestricted CM/ECF access, does not face this hardship.

#### **IV. FINANCIAL BURDENS CAUSED BY MANUAL FILING**

9. Costs of Filing: Defendant incurs \$150-\$300 per filing, including costs of printing, certified mail, FedEx, or courier services. Plaintiff's counsel files at no cost via CM/ECF.
10. Risk of Lost Filings: Defendant previously had a certified mailing lost by USPS, causing unnecessary delays. If granted CM/ECF access, Defendant would have a secure method to file documents and ensure they are timely received.

#### **V. UNEQUAL ACCESS TO THE COURTS & RETALIATORY LITIGATION**

11. Plaintiff Has Refiled Previously Dismissed Claims in State Court Against Defendant's Husband

- a. Plaintiff originally asserted tort claims in this federal case, which were dismissed. Plaintiff's counsel then refiled those same claims in Florida state court against Defendant's husband.
- b. Defendant's husband, as a state court litigant, has e-filing privileges, allowing him to respond efficiently, while Defendant is forced to manually file in federal court, facing systemic delays.
- c. This forum manipulation highlights a glaring procedural disparity, reinforcing the necessity of e-filing privileges for pro se litigants.

12. Plaintiff's Lawsuit Constitutes Retaliatory Litigation and an Attempt to Suppress Constitutionally Protected Speech

- a. Defendant's litigation stems from her decision to provide police reports to two corporations regarding misconduct. This is protected speech under the First Amendment and public policy.
- b. Plaintiff's claims are designed to intimidate and silence Defendant, mirroring a Strategic Lawsuit Against Public Participation (SLAPP).
- c. Florida's anti-SLAPP statute (Fla. Stat. § 768.295) explicitly prohibits lawsuits aimed at chilling free speech, yet Defendant faces procedural roadblocks preventing her from asserting such protections in a timely manner.

13. Formal Complaints to the Judicial Conference and the Florida Bar (**Exhibit A**)

- a. Defendant has formally submitted letters to the Judicial Conference of the United States detailing the systemic procedural barriers faced by pro se litigants, including the unfair disadvantage created by the inability to access the Court's CM/ECF filing system.
- b. Defendant has also reported concerns to the Florida Bar, highlighting Plaintiff's counsel's strategic use of procedural obstacles to gain an unfair litigation advantage.
- c. These actions underscore the serious and ongoing impact of the lack of procedural fairness, further justifying the need for CM/ECF access or alternative accommodations to ensure equal access to the courts.

**VI. ALTERNATIVE RELIEF IF CM/ECF ACCESS IS DENIED**

14. If the Court denies CM/ECF access, Defendant requests procedural accommodations to ensure fairness:

- a. Requiring Plaintiff's counsel to serve all filings via email and U.S. Mail to prevent delays.
- b. Permitting Defendant to submit filings via email to the Clerk for docketing.
- c. Mandating simultaneous electronic service of all case filings to prevent undue prejudice.

**VII. CERTIFICATION OF COMPLIANCE WITH CM/ECF REQUIREMENTS**

15. If granted CM/ECF access, Defendant certifies that she:

- a. Has reviewed the Court's CM/ECF Administrative Procedures.
- b. Will comply with all e-filing rules and procedures.
- c. Understands that improper use of CM/ECF privileges may result in revocation.

**VIII. RELIEF REQUESTED**

WHEREFORE, Defendant Ronda McNae respectfully requests that this Court:



1. Grant her permission to electronically file documents using the Court's CM/ECF system; or, in the alternative,
2. Order alternative procedural accommodations, including:
  - Requiring Plaintiff's counsel to serve all filings via email and U.S. Mail,
  - Allowing Defendant to submit filings via email to the Clerk, and
  - Ensuring all case filings are served on all parties simultaneously.

Grant any additional relief the Court deems just and proper.

Dated: February 4, 2025



By: Ronda Delapina McNae  
Pro Se Defendant  
504 11<sup>th</sup> PL Kirkland, WA 98033  
Tel: (206) 914-6752  
Prose.lmende@gmail.com

#### **CERTIFICATE OF CONFERRAL**

Pursuant to Local Rule 7.1(a)(3) of the Southern District of Florida, Defendant certifies that she attempted to confer in good faith with Plaintiff's counsel regarding the relief sought in this motion. Defendant emailed Plaintiff's counsel on **February 1, 2025**, informing them of her intent to seek permission for CM/ECF filing privileges due to the significant procedural disadvantages caused by manual filing. **Exhibit B** for conferral communication. Ms. Gussin's response "Pro se litigants will not be permitted to register as Users at this time and must file their documents in the conventional manner" and "This is Court procedure, and it is not something an Attorney can agree to."

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 4, 2025, a true copy of the foregoing Motion was sent via FedEx to the Clerk of the Court, Southern District of Florida, 400 N. Miami Ave, Room 8N09, Miami, FL 33128, and Plaintiff's counsel, in compliance with pro se litigant requirements.

#### **SERVICE LIST**

Peter E. Berlowe, Esq.  
Meredith Gussin, Esq.  
Assouline & Berlowe, P.A.

Miami Tower  
100 SE 2nd Street, Suite 3105  
Miami, FL 33131  
Tel: 305-567-5576  
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[peb@assoulineberlowe.com](mailto:peb@assoulineberlowe.com)  
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*Counsel for Plaintiffs*

# **EXHIBIT A**

**COPIES OF LETTERS SENT TO  
THE FLORIDA BAR**

**AND**

**THE JUDICIAL CONFERENCE  
OF THE UNITED STATES**

## THE FLORIDA BAR

The FLORIDA BAR  
651 East Jefferson Street  
Tallahassee, Florida 32399-2300

February 1, 2025

ATTENTION: Roland Sanchez-Medina Jr.

**Ensuring Equal Access to Justice for Pro Se Litigants and Protecting  
Constitutional Rights Against Retaliatory Litigation**

Dear Roland Sanchez-Medina Jr. and Esteemed Members,

I write this letter not solely on my behalf, but on behalf of countless pro se litigants across the country who are navigating an uneven and, at times, insurmountable legal landscape. My current case, **Case No. 1:22-cv-22171-JEM**, exemplifies the barriers faced by individuals who, without the benefit of legal representation or unlimited financial resources must defend themselves against well-resourced parties.

I write this letter to those with the ability to **compel systemic change** because my presiding judge may not have the authority to grant me e-filing privileges as an exception to the rule. However, this issue is not about making exceptions—it is about improving the system for all pro se litigants to ensure a more balanced and equitable legal playing field.

My goal is not just to remedy my own situation but to **advocate for structural reforms** that eliminate the unfair procedural barriers faced by unrepresented litigants. A fair and just legal system should not disadvantage individuals simply because they lack representation or the financial means to hire counsel. I am a stay-at-home mother of two biological teenage children and am in the process of adopting my young niece and nephew, both of whom are now in my care. While building a stable and loving home for my family, I am also defending myself in federal litigation stemming from my decision to provide police reports to two companies in accordance with public policy, even though the misconduct had already been reported to the companies in 2020. The police report gave weight to my voice, highlighting the disparity in how concerns are addressed when supported by official documentation.

Now, 2.5 years into this case, I find myself preparing for trial as a pro se litigant, facing systemic disadvantages that hinder my ability to meaningfully participate in the judicial process. As I continue to recover from the harm that forms the foundation of these lawsuits, I am doing my best to create a safe, structured, and consistent home for the two children I am adopting—all while navigating the often overwhelming challenges of self-representation. Without a college degree or formal legal training, navigating the legal system often feels like an impossible challenge. Yet, I remain steadfast in my commitment to uncovering the truth and making sure it is heard. I am determined to shine a light on the truth and ensure it echoes where it matters most.

**Barriers to Justice: My Personal Experience**

As a pro se litigant, I am required to submit filings manually, a process that imposes severe financial and logistical burdens:

1. **Financial Costs:** Each filing requires certified mail, FedEx, or courier services at costs ranging from \$150 to \$300 per motion, doubling when including service to opposing counsel. Over the course of this case, these expenses have amounted to thousands of dollars—a heavy burden for any individual, let alone a mother managing a household on a single income.

2. **Time Constraints and Delays:** Living in Seattle, Washington, while litigating in The Southern District of Florida, I must prepare and send filings by early morning to meet courier deadlines. Opposing counsel, with unrestricted access to e-filing, has exploited these delays. For instance, they have filed motions to strike my submissions before my filings even appeared on the docket, leveraging an unfair procedural advantage.
3. **Administrative Inefficiencies:** Manual filing not only delays docketing but also consumes valuable court resources. In contrast, granting pro se litigants access to e-filing would streamline case management and improve judicial efficiency. **Freedom of Speech and Retaliatory Litigation**
4. This litigation goes beyond a breach of contract claim—it represents an attempt to suppress my constitutionally protected rights under the **First Amendment**, specifically my right to freedom of speech and to petition the government for redress of grievances. By reporting misconduct to law enforcement and providing police reports, I exercised my civic duty and fundamental rights.
5. However, this case exemplifies what is commonly referred to as a **Strategic Lawsuit Against Public Participation (SLAPP)**—a lawsuit designed to silence, intimidate, and financially exhaust individuals who engage in protected speech. Florida’s anti-SLAPP statute (Fla. Stat. § 768.295) explicitly prohibits such lawsuits, but the protection it provides often feels out of reach for pro se litigants who lack the resources to effectively raise such defenses.
6. Denying pro se litigants access to e-filing systems exacerbates this problem. It creates structural barriers that make it nearly impossible to timely and effectively assert constitutional rights, including anti-SLAPP protections. The ability to file and respond in real time is critical in defending against meritless or retaliatory claims, yet this basic tool remains unavailable to many pro se litigants.

### **Systemic Disparities Impacting Survivors of Retaliation**

This case also highlights the broader issue of **retaliatory litigation** faced by survivors of misconduct. By reporting wrongdoing, I sought accountability for actions that undermined public trust. Instead, I now face years of costly, protracted litigation designed to silence my voice and discredit my actions. Denying e-filing privileges to pro se litigants, particularly survivors of misconduct, sends a chilling message: **stay silent, or you may face insurmountable legal retaliation.**

### **Access to Justice: A Civil Right**

Denying pro se litigants access to e-filing creates disparities that conflict with fundamental principles of fairness, equal protection, and procedural due process:

1. **Equal Access to the Courts:** Under the Due Process and Equal Protection Clauses of the 5th and 14th Amendments, individuals are guaranteed meaningful access to the courts. Denying e-filing creates a structural barrier that disproportionately impacts low-income litigants and those without representation.
2. **Procedural Fairness:** Allowing opposing counsel to file electronically while pro se litigants are relegated to manual filings creates an uneven playing field in adversarial proceedings. This systemic imbalance undermines the fairness required in civil litigation.

3. **Disparate Impact:** Many pro se litigants represent themselves due to financial constraints. Requiring manual filings imposes additional costs and logistical burdens that exacerbate the challenges faced by these individuals.

### **Proposals for Reform**

I respectfully urge the Judicial Conference, Local Rules Committee, and advocacy organizations to consider the following reforms:

1. **Grant E-Filing Privileges to Pro Se Litigants:** Pro se litigants should be permitted to use the CM/ECF system upon request, subject to reasonable safeguards such as training or certification.
2. **Adopt Pro Se E-Filing Programs Nationwide:** Federal courts should follow the example of districts like the Eastern District of New York and the Central District of California, which provide e-filing access to pro se litigants while maintaining court oversight.
3. **Ensure Protections for Survivors of Retaliatory Litigation:** Survivors of misconduct who represent themselves should be automatically granted e-filing privileges to ensure they can defend themselves without facing procedural disadvantages.

### **Judicial Efficiency and Public Confidence**

Providing e-filing access to pro se litigants would benefit not only individual litigants but also the judicial system as a whole:

- **Streamlined Case Management:** E-filing reduces the administrative burden on court staff and ensures more efficient docketing.
- **Timely Resolutions:** Real-time filings enable faster case progression, reducing delays caused by manual submissions.
- **Restoring Public Trust:** Ensuring equal access to electronic filing reinforces the principle of fairness and demonstrates a commitment to justice for all litigants.

### **Unequal Litigation Burden and Procedural Manipulation**

The disparities in access between represented parties and pro se litigants create **severe procedural disadvantages** that opposing counsel has actively exploited:

1. **Opposing Counsel's Ability to File in Multiple Courts**
  - While I am restricted to manual filing in federal court, opposing counsel has the advantage of unrestricted e-filing, allowing them to submit motions instantly across both federal and state courts.
  - This has resulted in strategic forum manipulation, where Plaintiff initially filed tort claims in federal court, had them dismissed, then refiled a nearly identical case in state court against my husband, who was granted e-filing privileges.
  - If not for my husband's ability to e-file, he would have faced the same overwhelming procedural barriers that I continue to experience.
2. **Strategic Use of Delays Against Pro Se Litigants**

- Opposing counsel has repeatedly taken advantage of my filing restrictions to strike my motions before they even appear on the docket.
- The inherent delays caused by mailing and docketing leave me vulnerable to procedural tactics that would not be possible if I had real-time e-filing access.

### **3. Inconsistent Court Access Creates an Unlevel Playing Field**

- If my husband—litigating an identical case in state court—is allowed to e-file, why should I, defending the original claims in federal court, be denied the same access?
- The rules should not allow attorneys to weaponize procedural obstacles against unrepresented litigants.

### **How This Reinforces the Urgency of E-Filing Reform**

This case demonstrates why **e-filing access must be extended to pro se litigants nationwide**. If represented parties are granted unrestricted access to electronic filing while pro se litigants are denied, the imbalance does not just create **inconvenience**—it **actively impacts case outcomes** by allowing opposing counsel to exploit procedural weaknesses.

**E-filing reform is not just a matter of efficiency; it is a matter of fairness.**

Access to the courts is not a privilege—it is a fundamental right. Yet, the current system denies pro se litigants the tools necessary to meaningfully participate in their cases. This issue is especially urgent for survivors of retaliatory litigation, who often face overwhelming financial and emotional burdens in their fight for justice.

I respectfully ask for e-filing privileges in my current case, **Case No. 1:22-cv-22171-JEM**, but more importantly, I urge systemic reform to ensure no other pro se litigant faces the same barriers I have encountered. By addressing this disparity, we can uphold the principles of fairness, equity, and access to justice that form the cornerstone of our legal system.

Sincerely,

**Ronda McNae**

Pro Se Defendant

504 11<sup>TH</sup> PL

Kirkland, WA 98033

(206) 914-6752



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OF THE UNITED STATES**

Judicial Conference of the United States  
Administrative Office of the U.S. Courts  
One Columbus Circle, NE  
Washington, DC 20544

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Sincerely,

**Ronda McNae**

Pro Se Defendant

504 11<sup>TH</sup> PL

Kirkland, WA 98033

(206) 914-6752



# EXHIBIT B



Fitzgerald v. McNae

**Meredith J. Gussin**

Jan 21, 2025, 7:24 PM

Meredith J. Gussin

Ms. McNae,

We are in receipt of your reply brief in Support of your Motion to Dismiss (DE 283). After review, it has come to light that you asserted new arguments that are beyond the scope of what was included in your Motion or our response. Additionally, you included several documents that were produced during discovery that were marked Confidential. Please advise if you would like to meet and confer on this; otherwise, we would like to file a brief 3-4 page surreply. Kindly advise if you have any opposition to us filing same. I look forward to hearing from you.

**Meredith J. Gussin, Esq.**  
 Litigation

Response to Your Concerns Regarding DE 283

**Ronda McNae**

Feb 21, 2025, 1:44 PM

Ronda McNae

Dear Ms. Gussin,

Thank you for your email regarding DE 283. I appreciate your attention to the details of my reply brief.

To clarify, the arguments raised in DE 283 are not entirely new but are rather expansions on the systemic discovery misconduct that I have consistently referenced throughout these proceedings. My intention was to provide the Court with additional context and evidence demonstrating the pattern of procedural violations and suppression tactics employed.

As for the "Confidential" documents you referenced, please identify specifically which ones you believe were improperly included. To my knowledge, the documents I cited were either supplied without a "Confidential" designation or were provided to your expert, Sheri Fiske, without retaining such designation, effectively removing their confidential status.

That said, I am open to a good-faith discussion to address your concerns. If we cannot resolve this matter informally over email, I would kindly request that you share your specific objections to facilitate a focused and productive exchange. As other bodies are now involved and looking into the matter (that go beyond this immediate litigation), email will have to suffice.

I look forward to your response.

Best regards,  
 Ronda McNae

On Fri, Jan 31, 2025 at 3:54 PM Meredith J. Gussin <mjg@assoulineberlowe.com> wrote:  
What other bodies are you referring to?

The documents that were marked confidential are pages 18-20, 22, 24-27 of your reply brief at Exhibit B. Can you advise where you found those documents as the bates labels have been redacted?

As to new arguments those include reference to Neil Lomax and my husband, Grant Gussin; allegations regarding SEC violations, providing a timeline to Dr DiTomasso, and Ms. De Varona's affidavit. These were not included in your initial motion and are, therefore, beyond the scope of what is appropriate in a reply brief.

Get Outlook for iOS

**From:** Ronda McNae <[ronda.mcnae@assoulineberlowe.com](mailto:ronda.mcnae@assoulineberlowe.com)>  
**Sent:** Friday, January 31, 2025 7:08:24 PM  
**To:** Meredith J. Gussin <[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)>  
**Cc:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Subject:** Re: Response to Your Concerns Regarding DE 283

Ms. Gussin,

A quick review confirms that you are mistaken regarding pages 24-27. I encourage you to carefully review your own production. I will locate the copies I received of pages 18-20 and 22 in the next few hours as I'm home with all the kids. If I inadvertently produced these and they were marked, I will rectify or call the chambers to figure out the best procedure in hopes to make an update immediately.

Additionally, what new arguments are you referring to? If I'm not in agreement with your assertion, I will move to strike your motion.

It is particularly ironic that the very documents you now claim are marked "confidential"—internal HR records I previously shared with Microsoft—have been weaponized against my family. This is especially troubling given that I exercised discretion in their disclosure, aligning with Honorable Magistrate Judge Becerra's guidance regarding overbroad designations.

Regarding other governing bodies, my position was made clear in my most recent filing in response to your premature request for a case management conference.

Regards,

Ronda

## Re: Response to Your Concerns Regarding DE 283

**Ronda McNae** <[ronda.mcnae@assouline.com](mailto:ronda.mcnae@assouline.com)>

Fri, Jan 31, 2025 at 5:49 PM (Encl: 2)



to: Meredith J. Gussin

Ms. Gussin,

If your primary concern is the Grant Gussin issue, I am open to discussing a resolution, though I firmly believe it strongly supports my case. I want to approach this matter in good faith.

-Ronda

On Fri, Jan 31, 2025 at 4:10 PM Meredith J. Gussin <[mjgussin@assouline.com](mailto:mjgussin@assouline.com)> wrote:

If you disclosed those documents to Microsoft that is in violation of the protective order set in place in this case.

I listed the new arguments in my prior email.

**From:** Ronda McNae <[ronda.mcnae@assouline.com](mailto:ronda.mcnae@assouline.com)>

**Sent:** Friday, January 31, 2025 11:54:47 PM

**To:** Meredith J. Gussin <[mjgussin@assouline.com](mailto:mjgussin@assouline.com)>

**Cc:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>

**Subject:** Re: Response to Your Concerns Regarding DE 283

Drafting a motion now, please let me know the reason for the designations for these documents. I'm still searching for the first couple pages as the copies I have were snapshots (hence) not having the designation.

-Ronda

On Fri, Jan 31, 2025 at 8:01 PM Meredith J. Gussin <[mjgussin@assouline.com](mailto:mjgussin@assouline.com)> wrote:

What sort of resolution do you propose? That is not my primary concern. All the new issues remain equally of issue insofar as they are beyond the scope of your motion.

Additionally, will you be voluntarily seeking a removal from the docket of the confidential documents? If not, I believe it is proper for the court to rule on the propriety of your inclusion of protected material in direct violation of the protective order which sets forth the procedure to question or challenge any designation. Your belief that the documents are not confidential isn't sufficient.

**From:** Meredith J. Gussin <[mjgussin@assoulineberlowe.com](mailto:mjgussin@assoulineberlowe.com)>  
**Sent:** Saturday, February 1, 2025 6:09:49 AM  
**To:** Ronda McNae <[ronda.mcnae@assouline.com](mailto:ronda.mcnae@assouline.com)>  
**Cc:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Subject:** Re: Response to Your Concerns Regarding DE 283

The documents were designated as confidential in the discovery process. The documents you provided neither have this designation nor the bates label which raises our concerns.

Filing another motion by you does not answer whether or not you are opposed to plaintiff filing a surreply to address these issues. Can you please advise whether or not you are opposed to us filing a brief surreply at this time? Thank you.

**Ronda McNae** <[ronda.mcnae@assouline.com](mailto:ronda.mcnae@assouline.com)>

Sat Feb 1 10:47 AM - 1 day ago



• Meredith J. Gussin <[mjgussin@assoulineberlowe.com](mailto:mjgussin@assoulineberlowe.com)>

Ms. Gussin,

I apologize, but I do oppose your motion. I did not raise new arguments; I referenced items from prior filings, as well as in this filing, to provide context and explain the broader issue of misconduct.

Could you please clarify the confidentiality designations for the documents in question? I have noticed some discrepancies and am trying to understand your client's rationale. It seems that a number of documents listed as confidential may no longer qualify under that designation.

This needs to be addressed in the state case considering you have pointed to the discovery in this case with some designations that may no longer apply.

Regards,

Ronda

**From:** Meredith J. Gussin <[mjgussin@assoulineberlowe.com](mailto:mjgussin@assoulineberlowe.com)>  
**Sent:** Friday, January 31, 2025 8:01:06 PM  
**To:** Ronda McNae <[ronda.mcnae@assouline.com](mailto:ronda.mcnae@assouline.com)>  
**Cc:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Subject:** Re: Response to Your Concerns Regarding DE 283

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**Ronda McNae**

to Margaret, Brian ▾

Feb 24, 2025 8:10 PM EST



I understand your concerns and appreciate your communication. I believe the documents included in my filing are highly relevant and directly address the discovery misconduct issues raised. Help me understand the confidentiality designations for the documents you believe are confidential. As you mentioned, there are 14,000 documents, many of which are mine and were produced without any confidentiality designation—and look where that has led us. I have not used any discovery materials outside of this case, which unfortunately cannot be said for Fitzgerald. I will follow court procedures with these documents. With that, please explain the designation for each document please? Including those that have been produced to third parties without designation.

-Ronda

**Ronda McNae**

to Margaret, Brian ▾

Feb 24, 2025 8:11 PM EST



Ms. Gussin,

I apologize, but I do oppose your motion. I did not raise new arguments; I referenced items from prior filings, as well as in this filing, to provide context and explain the broader issue of misconduct

Could you please clarify the confidentiality designations for the documents in question? I have noticed some discrepancies and am trying to understand your client's rationale. It seems that a number of documents listed as confidential may no longer qualify under that designation.

This needs to be addressed in the state case considering you have pointed to the discovery in this case with some designations that may no longer apply.

Regards,

Ronda

**Ronda McNae** - (name withheld under Fed. R. Civ. P. 6(e)(3))  
to Meredith J. Gussin - Reply ▾

Ms. Gussin,

I found a prior filing that supports why I have copies of some emails that aren't marked confidential. Though you assume otherwise, I will alert the court. You still haven't answered the question below.

Could you please clarify the confidentiality designations for the documents in question? Why do you believe they are still protected? I would like to include in my motion.

Thanks,





Ronda

**From:** Meredith J. Gussin <[mjg@AssoulineBerlowe.com](mailto:mjg@AssoulineBerlowe.com)>  
**Sent:** Saturday, February 1, 2025 11:46:55 AM  
**To:** Ronda McNae <[pro-crimronda@gmail.com](mailto:pro-crimronda@gmail.com)>  
**Cc:** Will McNae <[pro-crimwillmcnae@gmail.com](mailto:pro-crimwillmcnae@gmail.com)>; Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Subject:** RE: Notice of Court Filing: Fitzgerald v. McNae Case No. 22-22171

What prior filing are you referring to?

The documents are confidential because they were marked confidential when produced in discovery and Plaintiff has not waived his designations.

**Meredith J. Gussin, Esq.**

**Ronda McNae** 10100 NW 12th Ave, Suite 200, Ft. Lauderdale, FL 33309 Sat Feb 14 1:00 PM CST    





1 - Marked by Ronda McNae

Ms. Gussin,

With all due respect, you're avoiding my question rather than addressing it directly. I have asked the same question several times now.

Please clarify the specific basis for why the confidentiality designations are appropriate, especially given where we are in the case. I am trying to understand your reasoning so I can determine whether any of them should be challenged.

Regards,  
Ronda

**Ronda McNae** 10100 NW 12th Ave, Suite 200, Ft. Lauderdale, FL 33309 Sat Feb 14 2:04 PM CST    

1 - Marked by Ronda McNae

Dear Ms. Gussin,

I am writing to confer with you regarding my request to obtain e-filing privileges in this matter.

As you are aware, I have been required to file all documents manually, which creates unnecessary delays and additional burdens. Given the volume of filings and the need to efficiently litigate this case, I intend to seek leave of Court to file electronically pursuant to Southern District of Florida Local Rule 5.1 and Administrative Order 2023-7.

Please confirm whether you oppose my request for e-filing privileges. If you oppose, please provide your basis so that I may include your position in my motion to the Court.

Additionally, I intend to file a motion regarding the Confidentiality Designations regarding certain documents that have been improperly designated as "Confidential" under the Protective Order. These documents do not contain trade secrets, proprietary business information, or personally sensitive data and have been misused to obstruct discovery and suppress key evidence.

Please advise whether you oppose this motion as well. If you do, I request that you provide your legal basis for maintaining these confidentiality designations so that I may address it in my motion.

I appreciate your prompt response, as I plan to file sometime early next week.

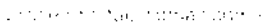




1) Oppose e-filing privileges?


2) Confidentiality Designations? Provide your position and the legal basis please.

Best regards,  
Ronda McNae

**From:** Meredith J. Gussin <mjg@assoulineberlowe.com>  
**Sent:** Sunday, February 2, 2025 7:10:08 AM  
**To:** Ronda McNae <rondamcnae@gmail.com>; Peter E. Berlowe <PEB@AssoulineBerlowe.com>; Will McNae <will@willmcnae.com>  
**Subject:** Re: Conferral Regarding E-Filing Request

We will provide you with our response by close of business tomorrow. Thank you.

**Ronda McNae**  Thu, Feb 2, 1:41 PM (5 days ago)    

1 Message | 500 words | 

Ms. Gussin,

To keep this straightforward, do you oppose my Motion to Challenge the Confidentiality Designations? A simple yes or no will suffice.

Additionally, do you oppose my Motion to Request E-Filing Privileges?

I will be filing a Motion to Strike, as I previously mentioned. There are also several issues concerning expert testimony that I intend to bring to the Court's attention, though I am still determining the best course of action.

Furthermore, I have uncovered additional evidence that further supports my concerns regarding harassment and intimidation through Instagram. I will follow up with the motion I intend to file on this issue.

Considering I gave you my position and you deflected any response to my prior emails, please provide your position on these motions by 12PM your time tomorrow.

Regards,

Ronda McNae



**From:** Ronda McNae <[Ronda.McNae@assouline.com](mailto:Ronda.McNae@assouline.com)>  
**Sent:** Sunday, February 2, 2025 8:51 PM  
**To:** Meredith J. Gussin <[mjgussin@assouline.com](mailto:mjgussin@assouline.com)>; Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>; Will McNae <[will@assouline.com](mailto:will@assouline.com)>  
**Subject:** Conferral Regarding Additional Evidence supporting DE 275

Ms. Gussin,

Pursuant to Local Rule 7.1(a)(3), I am reaching out to confer regarding my intent to file a **Notice of Additional Evidence in Support of Defendant's Motion to Dismiss (DE 275)**. Since filing my Reply in Support of the Motion to Dismiss, I have become aware of additional evidence of litigation misconduct that further supports dismissal.

This Notice is intended to ensure the Court has all relevant information before ruling on the pending Motion to Dismiss. Please advise whether you oppose or do not oppose the filing of this Notice.

I kindly request a response by 12PM Tuesday, so I may include your position in the Certificate of Conferral. If I do not receive a response by that time, I will indicate in my filing that a good-faith attempt to confer was made, but no response was received.

Thank you for your time and attention to this matter.

Best regards,  
Ronda McNae

**From:** Peter E. Berlowe <[PEB@AssoulineBerlowe.com](mailto:PEB@AssoulineBerlowe.com)>  
**Sent:** Monday, February 3, 2025 4:41 AM  
**To:** Ronda McNae <[Ronda.McNae@assouline.com](mailto:Ronda.McNae@assouline.com)>; Meredith J. Gussin <[mjgussin@assouline.com](mailto:mjgussin@assouline.com)>; Will McNae <[will@assouline.com](mailto:will@assouline.com)>  
**Subject:** RE: Conferral Regarding Additional Evidence supporting DE 275

Sure. Call whenever you have time, so we can have a meaningful meet and confer.

Peter E. Berlowe, Esq.

Sent: Monday, February 3, 2025 9:51 AM

To: Peter E. Berlowe <PEB@AssoulineBerlowe.com>; Meredith J. Gussin <[meredith.gussin@assoulineberlowe.com](mailto:meredith.gussin@assoulineberlowe.com)>; Will McNae <[will.mcnae@assoulineberlowe.com](mailto:will.mcnae@assoulineberlowe.com)>

Subject: Re: Conferral Regarding Additional Evidence supporting DE 275

Counsel,

I acknowledge your request for a phone conferral. However, given the history of our communications and dynamics, I will only communicate in writing to ensure clarity, accuracy, and a complete record of discussions. I respectfully request that all correspondence be conducted via email or formal court filings.

I will wait until 12:00PM ET Tuesday, before submitting my filings (stayed below) to allow you an opportunity to provide a written response.

For the prior motions I have emailed requesting your sides position. I request a response by 12PM ET today as I have given proper time considering the back and forth email correspondence.

Lastly, I was advised to keep all communications in writing, especially given my recent submission of information to regulatory authorities.

Regards,

Ronda

From: Peter E. Berlowe <PEB@AssoulineBerlowe.com>

Sent: Monday, February 3, 2025 7:01:56 AM

To: Ronda McNae <[prw@rsmcnay.com](mailto:prw@rsmcnay.com)>

Cc: Keisha Hall <[keahall@assoulineberlowe.com](mailto:keahall@assoulineberlowe.com)>; Meredith J. Gussin <[mjg@assoulineberlowe.com](mailto:mjg@assoulineberlowe.com)>

Subject: RE: Conferral Regarding Additional Evidence supporting DE 275

Dear Mrs. McNae:

We cannot confer in any way when you do not give any specifics. We do not know your arguments. We do not know the bates numbers of the pages you are referring to. Meet and confer is not a game of pulling teeth. We should have to guess what you are trying to argue. Please provide details.

I am copying Mr. McNae's counsel, because he is represented by counsel in the State Court case, and we do not want to have a communication with someone we know to be represented by counsel. I would ask that you stop copying him on this case, if you don't want us to copy his counsel on our replies.

Sincerely,

Peter E. Berlowe, Esq.

Ronda McNae - rmcnae@mcnae.com

12:14 PM 2/24/25



1: Ronda McNae (1) 1

Counsel,

I have made multiple good-faith efforts to confer under **Local Rule 7.1(a)(3)** regarding my intent to file the following motions:

1. **Motion for E-Filing Privileges** – Due to the ongoing difficulties of manually filing documents, I am requesting permission from the Court to file electronically through CM/ECF to ensure efficiency and timely filings.
2. **Motion to Challenge Confidentiality Designations** – I have repeatedly requested clarification as to Plaintiffs' confidentiality designations and have not received sufficient justification. As such, I intend to formally challenge certain confidentiality designations that appear improper or selectively applied.

For the above motions, please advise by **12:00 PM ET today** whether you oppose or do not oppose.

Additionally, I am conferring regarding my **Notice of Additional Evidence in Support of Defendant's Motion to Dismiss (DE 275)**, which addresses new evidence of litigation misconduct, including:

- **The withholding of key materials from expert witnesses.**
- **Improper surveillance of my social media accounts (additional individuals)**
- **Selective disclosure of documents to experts.**
- **Discrepancies in the expert witness transcript, raising concerns about accuracy etc.**

Conferral does not require me to provide a full legal brief or Bates numbers, only a reasonable summary of the nature of my filing. I have clearly stated the basis for my filings, and any further details will be provided in the actual motions submitted to the Court.

Please advise by **12:00 PM ET on Tuesday** whether you oppose or do not oppose the filing of this Notice.

If I do not receive a response by the respective deadlines, I will indicate in my filings that I made a good-faith attempt to confer, but opposing counsel failed to provide a position.

Regarding your request that I cease copying Mr. McNae on communications: As I previously stated, the federal court has ordered me to include him on case-related emails, and I will continue to comply with the Court's directive. If you have concerns about this, I suggest you address them with the Court rather than attempt to impose unilateral restrictions. To clarify, the federal court order applies strictly to the federal case and has no impact on the state court action. This order was issued when Will was represented by Richard Gomez in the state matter. Ms. Casey previously informed Will that if Mr. Gomez were representing him in the federal case, then all federal case-related emails would be sent to him. However, we ensured this was not the case.

Advise on your position to the above motions, thank you.

Regards,

Ronda McNae

From: Peter E. Berlowe <PEB@AssoulineBerlowe.com>  
Sent: Monday, February 3, 2025 8:04:42 AM  
To: Ronda McNae <[ronda.mcnae@assouline.com](mailto:ronda.mcnae@assouline.com)>  
Cc: Meredith J. Gussin <[mjgussin@assouline.com](mailto:mjgussin@assouline.com)>; Keisha Hall <[keisha.hall@assouline.com](mailto:keisha.hall@assouline.com)>  
Subject: RE: Conferal Regarding Additional Evidence supporting DE 275

Dear Mrs. McNae:

Thank you for your email but it is very light on details. How can we confer with you on a confidentiality designation if you refuse to give us the bates number of the document? We cannot read your mind.

How can we confer with you about withholding "key materials" from expert witnesses if you don't tell us what the "key materials" are?

How can we confer with you about this alleged "improper surveillance" of your public social media accounts or identify the individuals? If your referring to me, yes I recently looked at your account to see whether you are continuing to violate the confidential settlement agreement. We will continue to monitor your public social media accounts, as there is nothing improper at doing so.

What "selective disclosure" of documents are you referring to? Which documents? What bates numbers?

What discrepancies in expert witness transcripts? Which transcripts? What line and page should we look at?

Confer in good faith please.

Sincerely,

**Peter E. Berlowe, Esq.**

Ronda McNae  
See attached

8:07

Meredith J. Gussin

Jan 31

To You and Peter E. Berlowe

What other bodies are you referring to?

The documents that were marked confidential are pages 18-20, 22, 24-27 of your reply brief at Exhibit B. Can you advise where you found those documents as the bates labels have been redacted?

As to new arguments those include reference to Neil Lomax and my husband, Grant Gussin; allegations regarding SEC violations, providing a timeline to Dr DiTomasso, and Ms. De Varona's affidavit. These were not included in your initial motion and are, therefore, beyond the scope of what is appropriate in a reply brief.

Get Outlook for iOS

**From:** Meredith J. Gussin <mjgussin@assoulineberlowe.com>  
**Sent:** Monday, February 3, 2025 8:40 AM  
**To:** Ronda McNae <mnae@softwareone.com>; Peter F. Berlowe <PEB@AssoulineBerlowe.com>  
**Cc:** Keisha Hall <keisha.hall@softwareone.com>  
**Subject:** RE: Conferral Regarding Additional Evidence supporting DE 275

**Ronda,**

The attached email includes those documents that you produced in your Reply brief that we had disclosed as confidential in discovery. You advised that you received copies of those documents via "snapshot." I am not sure what that means, but if you could provide us with the bates label of the documents you included at pages 18-20, 22, 24-27 of your Reply, we can have a meaningful conferral.

As to your request to e-file, the Administrative Procedures of the Southern District of Florida CM/ECF provides at Section 2c: "Pro se litigants will not be permitted to register as Users at this time and must file their documents in the conventional manner."

This is Court procedure, and it is not something an attorney can agree to. As stated previously, your request is not within our purview to grant.

**Meredith J. Gussin, Esq.**  
Litigation

**Ronda McNae** <mnae@softwareone.com>

Thu Feb 27 10:07 AM

Counsel,

Regarding e-filing privileges, I have written to the Judicial Conference of the United States to advocate for meaningful reform. While I will (very) soon have counsel appearing in my case (which moots my request for your position), my experience underscores the significant prejudice faced by pro se litigants. My case serves as a compelling example of the systemic disparities, especially for those without legal insurance—unlike myself, who now has two policies—or the financial resources to sustain prolonged litigation.

The substantial costs I have personally incurred in filing and managing this case further highlight the urgent need for reform. I am committed to continuing this advocacy to ensure that future litigants are not subjected to the same inequities.

Lastly, it is counsel for SoftwareONE, not you, Peter, that I have observed lurking around my Instagram account. While my profile is public, a valid account must still be signed in to view my stories, as those are only accessible to signed-in users. This collective behavior is troubling, particularly given my recent reports to regulatory bodies and the concerns surrounding the IPO. It further underscores the broader pattern of concerning conduct in this case.

-Ronda

# Exhibit 19



UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

**Case Number: 22-22171-CIV-MARTINEZ**

MICHAEL FITZGERALD  
and YELANY DE VARONA,

Plaintiffs,

v.

RONDA MCNAE and WILLIAM MCNAE,

Defendants.

---

**OMNIBUS ORDER DENYING DEFENDANT’S MOTIONS TO SUPPLEMENT  
RECORD TO INCLUDE DEPOSITION TRANSCRIPTS**

**THIS CAUSE** came before this Court upon *pro se* Defendant Ronda McNae’s Motion for Leave to Supplement the Record to Include Deposition of Treating Therapist Sarah Dellinger, (ECF No. 224); Motion for Leave to Supplement the Record to Include Deposition of Treating Therapist Dr. Brock Weedman PsyD, (ECF No. 230); and Motion for Leave to Supplement the Record to Include Trauma Expert Deposition of Dr. Jim Hopper PsyD, (ECF No. 242) (collectively “Motions to Supplement Record”). This Court has reviewed the Motions to Supplement Record; Plaintiff Michael J. Fitzgerald’s Responses, (ECF Nos. 232, 233, 246); Defendant’s Replies, (ECF Nos. 235, 253); pertinent portions of the record, and applicable law and is otherwise fully advised in the premises. Accordingly, for the reasons set forth herein, the Motions to Supplement Record are **DENIED**.

Defendant McNae seeks to “supplement the record” with deposition transcripts of her treating therapists and trauma expert. Although there is no “record” to “supplement,” the Court construes these Motions to Supplement the Record as motions in *limine* asking this Court to

include the deposition transcripts as evidence in trial. However, the deadline to submit motions in *limine* was September 23, 2024, per this Court's Order extending certain pretrial deadlines. (ECF No. 168). Moreover, the deposition transcripts would be inadmissible hearsay if Defendant's treating therapists and trauma expert were to testify at trial. *See* Fed. R. Evid. 801(c).

Accordingly, it is **ORDERED AND ADJUDGED** that:

1. Defendant's Motions to Supplement Record, (ECF Nos. 224, 230, 242), are **DENIED**.
2. Defendant's Motion to Amend and Correct Certificate of Service, (ECF No. 229), is **DENIED**.
3. Defendant's Motion to Correct Exhibit, (ECF No. 255), is **DENIED**.
4. Defendant's Motion for Leave to Amend Motion to Correct and Supplement Exhibit, (ECF No. 259), is **DENIED**.
5. Defendant's Motion for Leave to File Errata, (ECF No. 260), is **DENIED**.
6. The Clerk is **DIRECTED** to **RESTRICT** ECF Nos. 224, 230-1, 242, 253, 255, 259.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 7th day of February 2025.

  
\_\_\_\_\_  
JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Copies provided to:  
All Counsel of Record  
Ronda McNae, *pro se*

# Exhibit 20

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

**Case Number: 22-22171-CIV-MARTINEZ**

MICHAEL FITZGERALD  
and YELANY DE VARONA,

Plaintiffs,

v.

RONDA MCNAE and WILLIAM MCNAE,

Defendants.

---

**ORDER DENYING DEFENDANT'S MOTIONS TO SUPPLEMENT RECORD**

**THIS CAUSE** came before this Court upon Defendant Ronda McNac's *pro se* Motions for Leave to Supplement the Record, (ECF Nos. 231, 245), (collectively "Motions to Supplement the Record"). This Court has reviewed the Motions to Supplement Record; Plaintiff Michael J. Fitzgerald's Responses, (ECF Nos. 234, 248); Defendant's Reply, (ECF No. 252); pertinent portions of the record, and applicable law and is otherwise fully advised in the premises. Accordingly, for the reasons set forth herein, the Motions to Supplement the Record are **DENIED**.

Defendant McNac seeks to "supplement the record with critical, newly uncovered evidence deliberately withheld by Plaintiff Michael Fitzgerald and respondent SoftwareONE" and provide this Court "with access to all relevant facts from *Jane Doe v. SoftwareONE, Inc.*, 85 Cal. App. 5th 98 (Cal. Ct. App. 2022)." (ECF No. 231 at 1). Although there is no "record" to "supplement," the Court construes these Motions to Supplement the Record as motions in *limine* asking this Court to include certain evidence in trial. However, the deadline to submit motions in

*limine* was September 23, 2024, per this Court's Order extending certain pretrial deadlines. (ECF No. 168).

Moreover, the Federal Rules of Civil Procedure that Defendant McNae relies on do not support the relief she seeks. Defendant first cites Federal Rule of Civil Procedure 15(d) as authority to support her Motion, however, Rule 15(d) relates to amending and supplementing pleadings, not adding documents into evidence. Defendant does not have a pleading to amend in this matter and the deadline to do so has long passed. (*See* ECF No. 7). Next, Rule 26(e), is also inapplicable, as it pertains to supplementing or correcting a discovery response. Plaintiff Fitzgerald asserts that he was under no obligation to supplement his response to McNae's interrogatories as he is not and has not been a party to any lawsuit other than the instant case against Defendant. (ECF No. 234 at 6). Lastly, Defendant seeks dismissal pursuant to Rule 37, but did not comply with the Rule as she did not file a motion to compel discovery. Moreover, Plaintiff asserts he did not fail to disclose or respond, so there is no discovery violation. (*Id.* at 7).

Defendant seeks to introduce evidence regarding the *Jane Doe* lawsuit to show that "Fitzgerald's damages were not caused by Defendant but were the result of his own misconduct and IIR issues at SoftwareONE" and to void the Settlement Agreement at issue because "it was signed under coercion, duress, and fraudulent concealment." (ECF No. 231 at 10–11). However, the *Jane Doe* case and the evidence Defendant seeks to introduce bear no relevance to the instant case. As Plaintiff explains:

The *Jane Doe* case involves unrelated allegations by a female in her 50s who was a former employee of SoftwareONE, Inc. in or around January 2017. Jane Doe claims that she was discriminated against on the basis of her age and gender. Jane Doe referred to Fitzgerald as a member of the "younger male leadership" at SoftwareONE but did not make any allegations that Fitzgerald himself was complicit in any alleged age or gender discrimination. Fitzgerald was not a party to the *Jane Doe* lawsuit, was not subpoenaed in the *Jane Doe* lawsuit, was not

deposed in the *Jane Doe* lawsuit, and was unaware that his name was ever mentioned in ancillary declarations filed in the *Jane Doe* lawsuit until now.


ECF No. 234 at 2. Plaintiff makes clear that he was not aware of the *Jane Doe* case, was neither a party nor a witness to it, and that it had nothing to do the Settlement Agreement that the Parties here entered into and at issue in this case. (*Id.* at 12).

Because the *Jane Doe* case and evidence that Defendant seeks to introduce are irrelevant to this case and to her duress defense, and because Plaintiff did not commit any discovery violations, this Court denies Defendant's Motions to Supplement Record and requests to sanction Plaintiff.

Accordingly, it is **ORDERED AND ADJUDGED** that:

1. Defendant's Motions to Supplement the Record, (ECF Nos. 231, 245), are **DENIED**.
2. Plaintiff's Cross-Motion to Strike Exhibit is **GRANTED**. The Clerk is **DIRECTED** to **STRIKE** ECF No. 231-1.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 13 day of February 2025.

  
\_\_\_\_\_  
JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Copies provided to:  
All Counsel of Record

# Exhibit 21

**COVER LETTER**

February 15, 2025

Ronda McNae  
504 11th Pl, Kirkland, WA 98033  
(206) 914 – 6752  
[Prose.Rmcnae@gmail.com](mailto:Prose.Rmcnae@gmail.com)

**Federal Bureau of Investigation (FBI) – Financial Crimes Division**  
**Attn: Financial Crimes Investigation Unit**  
Miami Field Office  
2030 SW 145th Avenue  
Miramar, FL 33027

**Federal Bureau of Investigation (FBI) –  
Financial Crimes Division**  
**Attn: Financial Crimes Investigation Unit**  
Seattle Field Office  
1110 3rd Avenue  
Seattle, WA 98101

Subject: Request for Urgent Investigation into ARAG Insurance Company's Unlawful Conduct  
Re: *McNae v. ARAG Insurance Co.*, Case No. 2:24-cv-00211-TL (W.D. Wash. 2024)

Dear Special Agent in Charge of the Financial Crimes Division, FBI Miami Field Office,

This formal complaint is submitted in good faith to request a regulatory investigation into ARAG Legal Insurance's unlawful and unethical practices that have obstructed my access to justice and denied me fair legal representation. As detailed in the attached complaint, ARAG's misconduct includes wrongful termination of my legal counsel, coercive settlement tactics, and direct interference in my defense, violating multiple state and federal laws.

ARAG failed to meet industry standards in handling the McNaes' claim. It did not properly investigate coverage concerns, failed to provide a reasonable explanation for withholding benefits, and prioritized its own financial interests over its insureds' legal needs. ARAG's actions were inconsistent with accepted claims handling practices, including:

1. Failure to Investigate: ARAG made coverage decisions without investigating key concerns, including attorney terminations.
2. Failure to Explain: ARAG failed to do so when it terminated the McNaes' attorneys just months before trial, without written notice or justification.
3. Unreasonable Denial of Benefits: Despite no stated benefit cap in the policy, ARAG claimed implicit limitations but failed to identify any policy exclusion justifying its stance on excessive billing or improper benefits.
4. Forcing Its Insured into Litigation: ARAG's termination of the McNaes' attorneys, if deemed improper, left them no choice but to sue for coverage.
5. Breach of Confidentiality: ARAG improperly allowed privileged and confidential information to be shared with opposing counsel.

**DOCUMENTS INCLUDED:**



To substantiate my complaint, I have enclosed the following documents:

**1. Declarations:**

- a. Declaration of Ronda McNae – ARAG’s misconduct and impact on McNae’s legal defense.
- b. Declaration of Will McNae – Firsthand testimony on ARAG’s failure to provide competent legal representation.
- c. Declaration of Ella McNae – Emotional and psychological impact of ARAG’s actions on McNae’s family.

**2. Legal Filings as Pro se litigant from *Fitzgerald v. McNae*, No. 1:22-cv-22171-JEM (S.D. Fla.):**

- a. DE 150 – Def. McNae’s Motion for Sanctions: Outlines the relentless personal attacks made by opposing counsel, emphasizing the disruption and challenges faced by McNae without the proper representation of legal counsel.
- b. DE 275 and 283 – Def. McNae’s Motion to Dismiss and Reply in Support of Mtn. to Dismiss: Argues that ARAG’s wrongful termination of legal counsel created significant prejudice, hindering McNae's ability to present critical evidence in the case.
- c. DE 292 and DE 295 – Court Orders Denying McNae’s Motions: The judge denied McNae’s motions to supplement the record, citing procedural limitations. These denials were a direct result of McNae’s ARAG in-network attorney failing to file the necessary supplements in a timely manner, leaving McNae, as a pro se litigant, unable to correct the record.
- d. A - List of motions filed pro se in the Southern District of Florida due to ARAG terminating legal counsel just two months before trial. This evidences the severe disadvantage and procedural prejudice suffered by Plaintiffs.
- e. B - List of motions filed due to ineffective counsel (Richard Gomez), an attorney assigned by ARAG. These motions illustrate how ARAG’s failure to provide competent legal representation led to significant legal setbacks.

**3. Legal Filings from *McNae v. ARAG Ins. Co.*, Case No. 2:24-cv-00211-TL (W.D. Wash. 2024)**

- a. Expert Report of Mary E. Owen, Esq.
- b. First Amended Complaint for Declaratory Relief (*McNae v. ARAG*)

Given ARAG’s pattern of misconduct and obstruction of justice, I respectfully request that your office take immediate action to investigate ARAG Legal Insurance, subpoena its internal communications and policyholder claim files, and impose the appropriate penalties to prevent further harm to policyholders. If any additional information is required, I am available to provide further details and testimony. Please confirm receipt of this complaint and advise on the next steps in your investigation.

Thank you for your time and attention to this serious matter.

Sincerely,

/s/ Ronda McNae  
504 11th Pl, Kirkland, WA 98033  
(206) 914 – 6752  
[Prose.Rmcnae@gmail.com](mailto:Prose.Rmcnae@gmail.com)

**FORMAL COMPLAINT**

February 15, 2025

Ronda McNae  
504 11th Pl, Kirkland, WA 98033  
(206) 914 – 6752  
[Prose.Rmcnae@gmail.com](mailto:Prose.Rmcnae@gmail.com)

**Federal Bureau of Investigation (FBI) – Financial Crimes Division**  
**Attn: Financial Crimes Investigation Unit**  
Miami Field Office  
2030 SW 145th Avenue  
Miramar, FL 33027

**Federal Bureau of Investigation (FBI) –  
Financial Crimes Division**  
**Attn: Financial Crimes Investigation Unit**  
Seattle Field Office  
1110 3rd Avenue  
Seattle, WA 98101

Subject: Urgent Request for Investigation into ARAG Legal Insurance's Unlawful and Unethical Conduct

Dear Regulatory Officials,

This is a follow-up report to my initial complaint submitted online earlier this month, requesting an urgent investigation into ARAG Legal Insurance's fraudulent and obstructive practices, which have denied me fair legal representation and access to justice.

I obtained group legal insurance coverage through ARAG via my husband's Microsoft employee benefit plan. When I was served with a retaliatory lawsuit in Florida federal court (July 2022), I sought legal representation through ARAG. Initially, ARAG acknowledged the complexity and high stakes of my case. However, after I refused to accept an unfair and coercive settlement offer, ARAG wrongfully terminated my legal counsel, abandoned its duty to protect me, and actively sabotaged my case.

**ARAG'S WRONGFUL CONDUCT**

1. **Failure to Investigate:** Washington law (WAC 284-30-370) requires insurers to complete claim investigations within 30 days unless circumstances prevent it. ARAG made coverage decisions without investigating key concerns, including attorney terminations.
2. **Failure to Explain:** Washington law (WAC 284-30-330(13)) requires insurers to provide a factual or legal explanation for claim denials. ARAG failed to do so when it terminated the McNaes' attorneys just months before trial, without written notice or justification. Despite selling a policy with no stated coverage limit, ARAG imposed restrictions that prevented other affiliated attorneys from taking over representation forcing McNae to self-represent *pro se* in Federal court.
3. **Unreasonable Denial of Benefits:** ARAG violated WAC 284-30-330(7) by terminating the McNaes' attorneys mid-litigation and conditioning benefits on new payment limits. Despite no stated benefit cap in the policy, ARAG claimed implicit limitations but failed to identify any policy exclusion justifying its stance on excessive billing or improper benefits.
4. **Forcing Its Insured into Litigation:** ARAG's termination of the McNaes' attorneys, if deemed improper, left them no choice but to sue for coverage. This violates WAC 284-30-330(7), which prohibits insurers from forcing claimants into litigation by unjustly limiting benefits.

5. **Breach of Confidentiality:** ARAG improperly allowed privileged and confidential information to be shared with opposing counsel. This failure compromised the insured's legal position, violating fundamental protections and industry standards that require insurers to safeguard their clients' sensitive information.

### **ONGOING HARM AND LEGAL PREJUDICE**

Due to ARAG's misconduct and legal malpractice, I was left at a severe disadvantage in my case.

- The Florida federal court denied my motions (DE 292 & 295) because my ARAG-appointed attorney failed to file critical documents in time, leaving me unable to correct the record.
- ARAG's interference and obstruction of due process resulted in irreparable harm to my legal defense.

### **LEGAL VIOLATIONS**

ARAG's misconduct violates multiple state and federal laws, including:

- Washington Insurance Fair Conduct Act (RCW 48.30.015) – Prohibits bad faith insurance practices.
- Washington Administrative Code (WAC 284-30-330) – Requires insurers to conduct fair and timely claims evaluations and provide a written explanation when denying claims.
- Washington Administrative Code (WAC 284-30-350) – Prohibits misrepresentations of insurance policies.
- Washington Consumer Protection Act (RCW 19.86.020) – Prohibits deceptive trade practices and settlement tactics.
- Federal Trade Commission Act (15 U.S.C. §§ 41-58) – Prohibits deceptive trade practices in insurance.
- IFCA (RCW 48.30.015) – Prohibits unreasonable delays in claims processing and denying claims without proper investigation.

### **REQUEST FOR IMMEDIATE REGULATORY ACTION**

Given ARAG's pattern of misconduct and obstruction of justice, I respectfully request that your office:

1. Launch an immediate investigation into ARAG's unlawful practices.
2. Subpoena ARAG's internal communications and policyholder claim files to uncover evidence of wrongdoing.
3. Impose sanctions and corrective actions to prevent further harm to consumers and ensure ARAG is held accountable.

I appreciate your time and attention to this serious matter. Please confirm receipt of this complaint and advise on the next steps. I am available to provide further information and testimony as needed.

Sincerely,

/s/ Ronda McNae



# Exhibit 22

### **Iowa Attorney General**

- Why I Am Reporting: Since ARAG is based in Iowa, ensuring accountability under Iowa law.
- How They Can Assist: Impose regulatory actions against ARAG for violations.
- Violations & Crimes Committed: Consumer fraud, bad faith insurance practices.

### **Iowa Supreme Court Attorney Disciplinary Board**

- Why I Am Reporting: Investigating unethical conduct by Iowa-based attorneys affiliated with ARAG.
- How They Can Assist: Revoke or suspend licenses and issue disciplinary action.
- Violations & Crimes Committed: Attorney misconduct, ethical violations.

### **Office of the Governor – Iowa**

- Why I Am Reporting: Ensuring state-level oversight of legal and financial misconduct related to ARAG.
- How They Can Assist: Direct Iowa state agencies to investigate fraudulent practices and unethical legal conduct.
- Violations & Crimes Committed: Consumer fraud, attorney misconduct, ethical violations.

### **Washington State Attorney General – Financial Crimes Unit**

- Why I Am Reporting: Investigating ARAG's financial misconduct and deceptive business practices.
- How They Can Assist: Can initiate legal action against ARAG for violations of state laws.
- Violations & Crimes Committed: Consumer fraud, bad faith insurance practices.

### **Washington State Office of the Insurance Commissioner**

- Why I Am Reporting: Ensuring ARAG complies with state insurance regulations and policyholder protections.
- How They Can Assist: Can impose penalties, investigate insurance misconduct, and enforce compliance.
- Violations & Crimes Committed: Insurance fraud, deceptive business practices.

### **Washington State Department of Financial Institutions (DFI)**

- Why I Am Reporting: Investigating ARAG's potential financial misconduct and consumer fraud.
- How They Can Assist: Can oversee compliance with state financial laws and take enforcement actions.
- Violations & Crimes Committed: Financial fraud, deceptive financial practices.

### **Office of the Governor – Washington**

- Why I Am Reporting: Ensuring state-level oversight of financial crimes and regulatory enforcement regarding ARAG's misconduct.

- How They Can Assist: Direct state agencies (Attorney General, Insurance Commissioner, Financial Institutions) to investigate fraud and misconduct.
- Violations & Crimes Committed: Consumer fraud, bad faith insurance practices.

#### **Florida Attorney General**

- Why I Am Reporting: Investigating ARAG's Florida-based misconduct, particularly attorney ethics violations.
- How They Can Assist: Impose state penalties, revoke business licenses, and investigate fraud.
- Violations & Crimes Committed: Fraud, deceptive trade practices.

#### **Florida Bar – Lawyer Regulation & Ethics Division**

- Why I Am Reporting: Holding Florida attorneys accountable for unethical conduct.
- How They Can Assist: Discipline attorneys, revoke licenses, and enforce legal ethics.
- Violations & Crimes Committed: Attorney misconduct, ethical violations.

#### **Florida Office of the Inspector General – Financial Crimes Division**

- Why I Am Reporting: Investigating financial misconduct involving Florida-based insurance fraud.
- How They Can Assist: Open a fraud investigation, subpoena records, and take enforcement actions.
- Violations & Crimes Committed: Financial fraud, insurance violations.

#### **Florida Office of Insurance Regulation**

- Why I Am Reporting: Investigating potential insurance fraud and consumer protection violations by ARAG in Florida.
- How They Can Assist: Regulate insurance practices, investigate fraud, and impose penalties for deceptive insurance policies.
- Violations & Crimes Committed: Insurance fraud, deceptive trade practices.

#### **Florida Department of Financial Services – Division of Investigative & Forensic Services**

- Why I Am Reporting: Investigating financial misconduct and insurance fraud by ARAG in Florida.
- How They Can Assist: Conduct forensic financial investigations, subpoena records, and prosecute insurance fraud.
- Violations & Crimes Committed: Financial fraud, insurance fraud.

#### **Federal Bureau of Investigation (FBI) – Financial Crimes Division (Miami & Seattle Field Offices)**

- Why I Am Reporting: Investigating potential financial crimes, fraud, and insurance misconduct involving ARAG.
- How They Can Assist: Open a financial fraud investigation, subpoena records, and coordinate with other federal agencies.
- Violations & Crimes Committed: Obstruction of justice, insurance fraud, deceptive business practices.

### **Federal Trade Commission (FTC)**

- Why I Am Reporting: Reporting deceptive trade practices by ARAG, misleading consumers regarding legal insurance.
- How They Can Assist: Issue penalties, investigate consumer complaints, and enforce compliance with consumer protection laws.
- Violations & Crimes Committed: Deceptive trade practices, unfair insurance practices.

### **Consumer Financial Protection Bureau (CFPB)**

- Why I Am Reporting: Ensuring ARAG's legal insurance practices comply with consumer financial protection regulations.
- How They Can Assist: Impose penalties, investigate insurance abuses, and enforce financial protections.
- Violations & Crimes Committed: Unfair business practices, misrepresentation of insurance policies.

### **U.S. Securities and Exchange Commission (SEC)**

- Why I Am Reporting: If ARAG misled investors or engaged in financial fraud related to public offerings and settlements.
- How They Can Assist: Investigate financial fraud and misrepresentation of business practices affecting investors.
- Violations & Crimes Committed: Securities fraud, misleading financial statements.

### **U.S. Department of Justice – Civil Rights Division**

- Why I Am Reporting: If ARAG's conduct led to civil rights violations, such as obstruction of justice.
- How They Can Assist: Prosecute civil rights violations and intervene in cases of misconduct affecting due process.
- Violations & Crimes Committed: Obstruction of justice, due process violations.

### **Internal Revenue Service (IRS) – Criminal Investigations**

- Why I Am Reporting: Investigating potential tax fraud related to ARAG's business practices.
- How They Can Assist: Audit financial transactions and impose tax fraud penalties.
- Violations & Crimes Committed: Tax fraud, financial misrepresentation.

### **U.S. Postal Inspection Service (USPIS)**

- Why I Am Reporting: If fraudulent legal service offers were sent via mail.
- How They Can Assist: Investigate mail fraud and deceptive advertising practices.
- Violations & Crimes Committed: Mail fraud, misrepresentation of services.

### **U.S. Small Business Administration (SBA) – Office of Inspector General (OIG)**

- Why I Am Reporting: Investigating financial fraud and unethical business practices in ARAG's policies.
- How They Can Assist: Review compliance with business regulations and take enforcement actions.
- Violations & Crimes Committed: Financial fraud, deceptive business practices.

**U.S. Department of Health & Human Services (HHS) – Office for Civil Rights**

- Why I Am Reporting: If ARAG's actions denied access to justice for a case involving trauma or civil rights.
- How They Can Assist: Investigate violations related to civil rights protections.
- Violations & Crimes Committed: Civil rights violations, denial of access to justice.

**Judicial Conference of the U.S. – Committee on Judicial Conduct & Disability**

- Why I Am Reporting: Ensuring fair judicial oversight if any misconduct by federal judges occurred.
- How They Can Assist: Investigate judicial misconduct and ethics violations.
- Violations & Crimes Committed: Judicial misconduct, obstruction of justice.



# Exhibit 23

**30(b)(6) Ann Cosimano**

**McNae v. ARAG Insurance Company**

**August 19, 2024**



1325 Fourth Avenue, Suite 1840 Seattle, Washington 98101  
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## McNae v. ARAG Insurance Company

30(b)(6) Ann Cosimano

Page 1

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLEWILLIAM MCNAE and RONDA MCNAE, )  
husband and wife, )

Plaintiffs, ) No. 2:24-cv-00211-TL

vs. )

ARAG INSURANCE COMPANY, )

Defendants. )

Videoconference Videotaped 30(b)(6)

Deposition Upon Oral Examination

of

ARAG INSURANCE COMPANY

ANN COSIMANO

9:33 a.m.

August 19, 2024

Witness Location: Des Moines, Iowa  
(All participants appeared via videoconference.)

REPORTED BY: Karmen Knudson, RPR, CRR, CCR #1935

Page 3

## I N D E X

EXAMINATION BY: PAGE  
Mr. Ruiz 4

## EXHIBIT INDEX

EXHIBIT MARKED PAGE  
1 Fourth Amended Notice of Rule 29  
30(B)(6) Deposition ARAG Insurance  
Company  
2 Document titled "ARAG Network 91  
Attorney Practices"  
3 Document titled "Participants and 138  
Decisionmakers"  
4 Document titled "Criticisms Relating 144  
to Plaintiffs or Plaintiffs'  
Representatives"

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## APPEARANCES

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## COURT REPORTER:

KARMEN KNUDSON, RPR, CCR  
BUELL REALTIME REPORTING  
1325 Fourth Avenue  
Suite 1840  
Seattle, Washington 98101

ALSO PRESENT: BROOK YOUNG, VIDEOGRAPHER

Page 4

THE VIDEOGRAPHER: We are on the record.  
Today's date is August 19th, 2024. The time now is  
approximately 9:33 a.m. This is the 30(b)(6) deposition  
of ARAG Insurance Company designee Ann Cosimano.  
ANN COSIMANO, witness herein, having been  
duly sworn by the Certified  
Court Reporter, testified  
under oath as follows:

## EXAMINATION

BY MR. RUIZ:

**Q. Good morning.**

A. Good morning.

**Q. In what city do you reside?**

A. Grimes, Iowa.

**Q. And do you have any plans to move from Grimes  
in the next twelve months?**

A. No.

**Q. You're represented by counsel at today's  
deposition?**

A. Meaning ARAG? Yes. ARAG.

**Q. Yes. And who are those attorneys?**

A. Mike Mullaly and Ben Roesch.

MR. RUIZ: Mr. Mullaly, will you be objecting  
today?

1 (Pages 1 to 4)

McNae v. ARAG Insurance Company

30(b)(6) Ann Cosimano

Page 5

1 MR. MULLALY: I will. Good morning, guys.  
 2 **Q (By Mr. Ruiz) Do you go by any other name,**  
 3 **Ms. Cosimano?**  
 4 A. No.  
 5 **Q. Have you ever gone by another name?**  
 6 A. Yes.  
 7 **Q. Is that -- would that be your maiden name?**  
 8 A. No.  
 9 **Q. Oh, no, okay. What other name have you gone**  
 10 **by?**  
 11 A. Ann Rice, R-i-c-e.  
 12 **Q. Any others?**  
 13 A. No.  
 14 **Q. You know and I have never spoken before.**  
 15 **True?**  
 16 A. Just -- no.  
 17 **Q. We saw each other last --**  
 18 A. Each other, yes.  
 19 **Q. Have you ever spoken with anyone from my law**  
 20 **firm?**  
 21 A. I don't believe so, no.  
 22 **Q. Have you spoken with any attorneys from**  
 23 **Microsoft regarding the McNae case?**  
 24 A. No.  
 25 **Q. You were here Friday all day?**

Page 6

1 A. Yes.  
 2 **Q. You were here for the part where I went over**  
 3 **sort of the background rules for how a deposition is**  
 4 **conducted and certain understandings about not**  
 5 **speculating, not guessing, saying you don't remember if**  
 6 **you don't remember, things like that?**  
 7 A. Yes.  
 8 **Q. Did you all -- did you understand all of that**  
 9 **on Friday? I don't want to waste anyone's time,**  
 10 **especially yours, so can we skip that part, then?**  
 11 A. Yes.  
 12 **Q. Have you had your deposition taken before?**  
 13 A. I have sat for depositions, but I can't  
 14 remember if I was the deponent or if I was just involved  
 15 in the preparation.  
 16 **Q. When would that have been?**  
 17 A. Ten-plus years ago.  
 18 **Q. As far as specific recollection goes, this is**  
 19 **your first time in the witness chair; is that fair?**  
 20 A. Fair.  
 21 **Q. Have you testified in court before?**  
 22 A. Yes.  
 23 **Q. Tell me about that.**  
 24 A. It was --  
 25 MR. MULLALY: Object to form.

Page 7

1 You can answer.  
 2 A. It would have been as an ARAG representative  
 3 in a couple of cases.  
 4 One would have been a case where an attorney  
 5 was accused of forging traffic tickets in order to get  
 6 payment under the insurance plan. He was printing off  
 7 tickets for other people and changing the information.  
 8 And so I was subpoenaed to testify to that case.  
 9 Very early on in my career, some cases in  
 10 eviction actions. I worked for a nonprofit housing  
 11 organization.  
 12 Telephonically in cases, I recall one about  
 13 the payment under the insurance plan for a divorce case.  
 14 I believe the parties wanted to understand what the  
 15 payment to the opposing party's attorney was under the  
 16 legal plan.  
 17 Another was a case where an attorney was on  
 18 trial for mortgage fraud in a case. And he had also had  
 19 some questionable claims activity for ARAG, and so the  
 20 prosecutor called me for that case.  
 21 That's all the ones I can recall right now.  
 22 **Q (By Mr. Ruiz) The cases where you testified**  
 23 **in eviction proceedings, those had nothing to do with**  
 24 **ARAG, I take it.**  
 25 A. Exactly.

Page 8

1 **Q. The others you mentioned were related to ARAG**  
 2 **in some form or another?**  
 3 A. Yes.  
 4 **Q. True?**  
 5 A. True.  
 6 **Q. Were any of them cases filed against ARAG by**  
 7 **an insured?**  
 8 A. No.  
 9 **Q. And were any of them cases in which ARAG had**  
 10 **filed a lawsuit against the insured?**  
 11 A. No.  
 12 **Q. When was the most recent time you testified?**  
 13 A. I'm -- it would have probably been the  
 14 mortgage fraud case, which was still ten-plus years ago.  
 15 **Q. Have you ever testified in an arbitration?**  
 16 A. No.  
 17 **Q. Have you ever submitted a sworn declaration**  
 18 **for a court case or an arbitration besides our case?**  
 19 A. Yes.  
 20 **Q. Tell me about that, if you can.**  
 21 A. Ooh.  
 22 MR. MULLALY: Object to form.  
 23 You can answer.  
 24 A. It would have been as it related to fees.  
 25 It's probably more common, actually, that I get asked to

2 (Pages 5 to 8)

Page 9

1 do something like that for fees, as a clarification,  
 2 versus to testify.  
 3 And then I'm trying to remember -- we had an  
 4 arbitration, and I can't remember if I had to submit a  
 5 declaration.  
 6 I wasn't the witness for the arbitration. We  
 7 were the -- one of the participants in the arbitration.  
 8 **Q (By Mr. Ruiz) How many declarations have you**  
 9 **signed for our case, the McNae case?**  
 10 A. Just one, I believe.  
 11 **Q. Just the -- just the one on scheduling?**  
 12 A. Yes.  
 13 **Q. Have you ever served as an expert witness in**  
 14 **any case?**  
 15 A. No.  
 16 **Q. Would you give a thumbnail sketch of your**  
 17 **educational background?**  
 18 A. Sure.  
 19 I went to undergrad at Peru State College in  
 20 Peru, Nebraska, where I got a bachelor's of science  
 21 degree, and then law school at Creighton University  
 22 School of Law in Omaha, Nebraska, where I got my juris  
 23 doctorate.  
 24 **Q. What year?**  
 25 A. 19 -- oh, gosh.

Page 10

1 **Q. That's okay. I think I'm --**  
 2 **(Crosstalk)**  
 3 **Q. I think I'm older than you.**  
 4 A. 1986?  
 5 **Q. We're of similar age.**  
 6 **All right. So you have the BA in what**  
 7 **subject?**  
 8 A. It's a BS. Psychology, sociology, prelaw.  
 9 **Q. That's in Peru, Nebraska, or Peru County?**  
 10 A. Peru, Nebraska. A little town.  
 11 **Q. What's that close to?**  
 12 A. Nebraska City.  
 13 **Q. I only know Sidney and Omaha.**  
 14 A. About two hours outside of Omaha.  
 15 **Q. Understood.**  
 16 **Then you have your JD; right?**  
 17 A. Yes.  
 18 **Q. Any others degrees?**  
 19 A. No.  
 20 **Q. Professional licenses issued by a**  
 21 **governmental authority?**  
 22 A. My license to practice law by the State of  
 23 Iowa.  
 24 **Q. Any others?**  
 25 A. No.

Page 11

1 **Q. And then how about professional**  
 2 **certifications from private organizations?**  
 3 A. No.  
 4 **Q. Any education in insurance claims handling?**  
 5 A. Not formal.  
 6 **Q. Have you gone to adjuster school?**  
 7 A. No.  
 8 **Q. Have you taken the classes to get an**  
 9 **adjuster's license?**  
 10 A. Yes -- actually, no, not adjusters. Sorry.  
 11 **Q. What were you thinking of?**  
 12 A. Producer.  
 13 **Q. Oh, an insurance producer?**  
 14 A. Right.  
 15 **Q. Sort of what some folks call an insurance**  
 16 **agent or insurance broker?**  
 17 A. Yes.  
 18 **Q. Did you get a certification for a producer?**  
 19 A. I did.  
 20 **Q. When was that?**  
 21 A. Probably early 2000s. I did not maintain it.  
 22 Took it more for the education aspect.  
 23 **Q. An insurance producer is different from an**  
 24 **insurance adjuster; right?**  
 25 A. Yes.

Page 12

1 **Q. My understanding -- and you tell me if I'm**  
 2 **right -- an insurance producer sells policies and an**  
 3 **insurance adjuster handles insurance claims.**  
 4 A. Yes.  
 5 **Q. Is that fair?**  
 6 A. Fair.  
 7 **Q. Have you read any texts regarding insurance**  
 8 **claims handling?**  
 9 **(Crosstalk)**  
 10 MR. MULLALY: Object to form.  
 11 You can answer.  
 12 A. Books or policies, it just -- I wonder if you  
 13 can rephrase the question.  
 14 **Q (By Mr. Ruiz) That's a good point of**  
 15 **clarification. There's a lot of different things that**  
 16 **are texts.**  
 17 **Let's start big picture, with like a treatise**  
 18 **or a book.**  
 19 A. No.  
 20 **Q. Have you read insurance claims handling**  
 21 **procedures from any other company besides ARAG?**  
 22 A. Not that I recall.  
 23 **Q. Have you read the claims handling procedures**  
 24 **from ARAG itself?**  
 25 A. Yes.

3 (Pages 9 to 12)

McNae v. ARAG Insurance Company

30(b)(6) Ann Cosimano

Page 13

1 Q. Okay. Did you write them or have a role in  
2 writing them?

3 A. No.

4 Q. Who did?

5 MR. MULLALY: Object to scope.  
6 You can answer.

7 A. I don't know.

8 Q (By Mr. Ruiz) Do you subscribe to any  
9 industry publications that put out either magazines or  
10 newsletters or bulletins regarding insurance claims  
11 handling practices?

12 A. If -- if like state newsletters or state-  
13 issued publications would be included in that list, yes.

14 Q. Can you give me an example?

15 A. For example, the states that we're licensed  
16 in will often send updates on their -- any changes that  
17 they have to their regulations, and I subscribe to many  
18 of those.

19 Q. I understand. So, for example -- and I'm  
20 just making this up -- the Alaska -- whatever their  
21 insurance commissioner is called will send out an email  
22 blast to people who have signed up, for example.  
23 Is that fair?

24 A. Yes.

25 Q. And I'm sure there's something here in

Page 15

1 Q. Okay. Are you a part of any industry  
2 organizations that provide basic insurance forms that  
3 other insurance companies can use?

4 A. No.

5 Q. Who wrote -- well, strike that.

6 Do you know who wrote the ARAG insurance  
7 policy here?

8 MR. MULLALY: Object. Scope.

9 You can answer.

10 A. Not the original policy.

11 Q (By Mr. Ruiz) When was the original policy  
12 written?

13 MR. MULLALY: Same objection.

14 You can answer.

15 A. We've been in business for over 50 years, and  
16 so I believe filed with the first state more than that  
17 long ago. So it would have been the -- the first  
18 iteration would have been back then.

19 Q (By Mr. Ruiz) Is it fair to say that over  
20 the 50 years, the insurance policy language has evolved?

21 A. Yes.

22 Q. And each time it has evolved, somebody within  
23 ARAG has made changes to it and then sought approval of  
24 the changes?

25 MR. MULLALY: Same objection.

Page 14

1 Washington too. Yes --

2 MR. MULLALY: Object to form.

3 Q (By Mr. Ruiz) -- probably?

4 Do you agree there's probably something from  
5 Washington as well?

6 A. Agree. Probably.

7 Q. What about bulletins and publications from  
8 private organizations like the ISO?

9 A. No.

10 Q. Have you reviewed any documents from an  
11 organization like ISO? And I'm talking about books,  
12 treatises, you know, that write insurance policies that  
13 insurance companies can base their policies off of.

14 MR. MULLALY: Object to form.

15 You can answer.

16 A. Not books, no.

17 Q (By Mr. Ruiz) What about something else not  
18 a book?

19 A. I'm just thinking of the actual policies  
20 themselves. We often review policies written by other  
21 companies, especially other legal insurance companies.

22 Q. Competitors?

23 A. Right.

24 Q. Do you know what ISO is?

25 A. No.

Page 16

1 You can answer.

2 A. Yes.

3 Q (By Mr. Ruiz) And over the last five years,  
4 who have been the people -- well, strike that.  
5 Have there been changes to the policy in the  
6 last five years?

7 MR. MULLALY: Same objection.

8 You can answer.

9 A. Yes.

10 Q (By Mr. Ruiz) Who at ARAG is responsible for  
11 making those changes?

12 MR. MULLALY: Same objection.

13 A. We have a product development team, and they  
14 originate those requests for changes in the -- in the  
15 language.

16 Q (By Mr. Ruiz) Are you a part of the product  
17 development team?

18 A. No.

19 MR. MULLALY: Same objection.

20 THE WITNESS: Sorry.

21 Q (By Mr. Ruiz) Who is responsible for the  
22 product development team at ARAG?

23 MR. MULLALY: Same objection.

24 A. Derek Overton, I believe, is the supervisor,  
25 and Chris Thomas is the primary individual on that team.

4 (Pages 13 to 16)

Page 17

1 **Q (By Mr. Ruiz) On Friday -- I'm a little**  
 2 **tired so I'm having trouble remembering things. So let**  
 3 **me start over.**

4 **On Friday, Ms. Adams referred to three**  
 5 **exclusionary provisions in the policy.**  
 6 **Do you remember that?**

7 MR. MULLALY: Object to form.  
 8 You can answer.

9 A. Yes.

10 **Q (By Mr. Ruiz) Who is responsible for**  
 11 **revisions to those provisions in the last five years?**

12 MR. MULLALY: Objection. Scope.  
 13 You can answer if you know.

14 A. So it would have been the product team. And  
 15 Chris Thomas has been leading that team for quite a  
 16 while. And then there is a -- like a subcommittee, like  
 17 a committee that's made up of multifunctional teams that  
 18 provides input and assists in kind of crafting the  
 19 language.

20 **Q. So we have Derek Overton; right?**

21 A. Yes.

22 **Q. And we have Chris Thomas; correct?**

23 A. Yes.

24 **Q. And then we have a multifunctional team that**  
 25 **assists in crafting language; correct? Yes?**

Page 18

1 A. Yes.

2 **Q. Are you a part of the multifunctional team?**

3 A. Yes.

4 **Q. Who else is part of that?**

5 MR. MULLALY: Same objection. Scope.  
 6 You can answer.

7 A. I could probably speak to the teams that are  
 8 represented.

9 Customer care is represented. Compliance.  
 10 I'm going to apologize. I'm on a few  
 11 different committees and wanting to make sure I'm  
 12 getting the right one.

13 **Q (By Mr. Ruiz) Take your time.**

14 A. I believe attorney relations.

15 Those are the ones I can say with some level  
 16 of confidence.

17 **Q. I appreciate that. And if something else**  
 18 **comes to mind -- I really have committed to myself to**  
 19 **not go all day today, Ms. Cosimano, and so I'm going to**  
 20 **do much better today. I've committed to but I cannot**  
 21 **guarantee.**

22 **But at any point today, you think of**  
 23 **something else on any of these questions, just let me**  
 24 **know. We can -- as long as we get one question out of**  
 25 **the way, we can come back to anything else. All right?**

Page 19

1 A. Understood.

2 **Q. Do you have any training in medicine?**

3 A. No.

4 **Q. Psychiatry?**

5 A. My undergrad degree was psychology/sociology  
 6 but would not call that formal.

7 **Q. No, it was --**

8 A. I suppose it's formal, but it was not what I  
 9 went on to do, to pursue as my career.

10 **Q. I appreciate that answer. I mean, it's true**  
 11 **you have your degree.**

12 **So let me put it to you another way: Do you**  
 13 **use the formal education that you had in psychology or**  
 14 **anything that you picked up during college on the**  
 15 **subject of trauma, do you use those in your work at ARAG**  
 16 **at all?**

17 MR. MULLALY: Object to form.

18 You can answer.

19 A. And I -- day to day just working with people,  
 20 I think you use a bit of psychology in every  
 21 interaction. But I couldn't say to what degree.

22 **Q (By Mr. Ruiz) I'm connecting with that**  
 23 **because I feel like anyone I talk to, even, you know, my**  
 24 **kids, friends, parents, I'm a -- I'm a lawyer no matter**  
 25 **who I'm talking to.**

Page 20

1 A. Yeah.

2 **Q. All right. So that does resonate.**

3 **Let me turn to a different subject.**

4 **Your current employer's official name is**  
 5 **what?**

6 A. ARAG North America, Inc.

7 **Q. Now, is that the same company that**  
 8 **underwrites the policy here?**

9 A. No.

10 **Q. So what's the difference?**

11 A. ARAG North --

12 MR. MULLALY: Objection to scope.

13 Sorry, Ann. You can answer.

14 A. ARAG North America, Inc., is a holding  
 15 company and there are companies underneath it, one of  
 16 which is ARAG Insurance Company who writes the policy.

17 **Q (By Mr. Ruiz) Are the folks who handle**  
 18 **insurance claims and customer care, are those folks**  
 19 **employed by the holding company?**

20 A. Yes.

21 MR. MULLALY: Same objections.

22 **Q (By Mr. Ruiz) And then the insurance**  
 23 **benefits, that comes out of money from the specific**  
 24 **underwriting insurance company; is that fair?**

25 MR. MULLALY: Same objection.

5 (Pages 17 to 20)



Page 21

1 A. Yes.

2 **Q (By Mr. Ruiz) You're not looking for another**  
3 **job right now, are you?**

4 A. No.

5 **Q. You're not contemplating changing jobs in the**  
6 **next year?**

7 A. No.

8 **Q. Can you give me a thumbnail sketch of your**  
9 **employment history, starting with graduating from law**  
10 **school?**

11 A. I started as a corporate counsel with  
12 Midamerica Housing Partnership in Cedar Rapids, Iowa. I  
13 worked there for approximately three years. And then I  
14 became a staff attorney at ARAG -- at the time, Summus,  
15 LLC, later name to be changed to ARAG North America,  
16 Inc. -- and have been with them for 24 years.

17 **Q. Describe your career progression from staff**  
18 **attorney to general counsel.**

19 A. Sure.

20 I started as a part-time staff attorney for  
21 just a few months, then was hired full-time as corporate  
22 counsel in approximately two thousand -- 2017 -- no,  
23 2007. 2007.

24 I was promoted to acting general counsel and  
25 then, about a year later, general counsel.

Page 22

1 **Q. Okay. What were your responsibilities as a**  
2 **staff attorney?**

3 A. It was research, provide marketing review,  
4 general items as kind of delegated by the then-associate  
5 general counsel and general counsel.

6 I didn't have any management duties at that  
7 time, so it was strictly reviewing any contracts that  
8 might come through. Started probably more on the simple  
9 transactional side.

10 **Q. So if like ARAG had a vendor, you might work**  
11 **on a contract with a vendor?**

12 A. Exactly.

13 **Q. Can you help me with the math? When did you**  
14 **become general counsel?**

15 A. In about 2008.

16 **Q. So that's about 16 years now.**

17 A. (Witness nods head.)

18 **Q. As general counsel, do you oversee claims**  
19 **handling?**

20 A. I did --

21 MR. MULLALY: Objection. Scope.

22 You can answer.

23 A. I did at one point.

24 **Q (By Mr. Ruiz) When?**

25 MR. MULLALY: Same objection.

Page 23

1 You can answer.

2 A. About 12 years ago, 13 years ago, for maybe a  
3 period of two years.

4 **Q (By Mr. Ruiz) But not since?**

5 A. No.

6 **Q. What are -- strike that.**

7 **Let's focus on the last five years. What**  
8 **have your responsibilities been as general counsel?**

9 A. So in my role, I oversee the legal regulatory  
10 compliance, risk, network development, and attorney  
11 relations functions for the legal role. We do contract  
12 review, any legal research, give input on product  
13 development, marketing review, if there are any  
14 Department of Insurance issues or audits.

15 As part of regulatory compliance, that team  
16 is responsible for all the form and rate filings of the  
17 department as well as internal compliance functions, to  
18 act as a resource to help the different departments.

19 From a risk function, it's identifying the  
20 risks of the organization, ensuring we have proper  
21 controls in place to mitigate them.

22 Network development is the recruitment of  
23 attorneys to join the network in the areas where we have  
24 members that require service.

25 And then the attorney relations, it's then

Page 24

1 maintaining those relationships with the network  
2 attorneys.

3 **Q. Walk me through, if, say, my law firm**  
4 **wanted -- I'm sure ARAG doesn't want us, but if my law**  
5 **firm wanted to join the network, what would the process**  
6 **be like?**

7 A. We have an application process that an  
8 attorney fills out, an online application, where they  
9 share their licensing background, any disciplinary  
10 issues that they might have, their malpractice insurance  
11 information and, as part of that process, whether or not  
12 they would agree to the terms of our attorney agreement  
13 as well as our fee schedule.

14 **Q. Okay. Does ARAG put on conventions or**  
15 **functions or get-togethers for network attorneys?**

16 A. For the whole net -- for the whole network?

17 **Q. Sure.**

18 A. No. Nothing where we would like invite the  
19 whole network to come, but we have some -- like we  
20 sponsored a diversity, equity, and inclusion panel where  
21 we invited attorneys from our network to come and give  
22 us feedback on how we could be more appealing or attract  
23 and retain diverse attorneys to serve our members'  
24 needs.

25 If there's a specific purpose to have a small

6 (Pages 21 to 24)



Page 25

1 group of attorneys, then we sponsor those, like a -- we  
2 also have an attorney advisory board, and we'll sponsor  
3 a get-together with them on occasion.

4 **Q. Who's your direct supervisor?**

5 A. David Murray.

6 **Q. That's the president and CEO?**

7 A. Yes.

8 **Q. How long has this person been your direct  
9 supervisor?**

10 A. Probably 14 years.

11 **Q. Is that how long he's been the president/CEO?**

12 A. Yes.

13 **Q. And I take it that Mr. Murray reports to a  
14 board of directors.**

15 A. Yes.

16 **Q. Who reports to you?**

17 A. I have direct reports. I have five. And  
18 then they have direct reports beneath them.

19 Do you want me to list them by name?

20 **Q. No.**

21 A. Okay.

22 **Q. What are the titles of the people who report  
23 to you?**

24 A. Sure.

25 Enterprise risk manager, network development

Page 26

1 manager -- oh, I think it's director of enterprise risk  
2 management, actually. Network development manager,  
3 attorney relations manager, and two senior paralegals.

4 **Q. Was one of them Cathie Kyle?**

5 A. Kathy Miller.

6 **Q. Kathy Miller. I'm sorry.**

7 A. Yes.

8 **Q. So what does the director of enterprise risk  
9 management do?**

10 A. She manages that enterprise risk function  
11 that I described where they identify the risks to the  
12 organization and then ensure that we have appropriate  
13 mitigation and controls in place; for example, data  
14 breach or protection of information security and  
15 ensuring that we've got the proper controls in place to  
16 protect people's data.

17 **Q. And what's the name of the person who does  
18 that?**

19 A. Jodi Selby.

20 **Q. What are the functions of the network  
21 development manager?**

22 A. That person's responsible for determining  
23 what areas -- where we need network attorneys and then  
24 recruiting attorneys in those areas.

25 **Q. What's that person's name?**

Page 27

1 A. Jackie Bruce.

2 Let me know if you want me to spell any of  
3 them.

4 **Q. The attorney relations manager, who is that?**

5 A. Allie Winterhof.

6 **Q. What does the attorney relations manager do?**

7 A. She -- once the attorneys join the network,  
8 she's responsible for basically ensuring that they have  
9 everything that they need to be successful. So answers  
10 questions and assists with any issues that they might  
11 have, maintains the attorney portal.

12 **Q. What's the attorney portal?**

13 A. The attorney portal is where network  
14 attorneys would come to get information. They can  
15 submit a case request. They can look up their claims or  
16 case history, kind of manage their relationship with  
17 ARAG.

18 **Q. And all network attorneys have access to the  
19 attorney portal?**

20 A. Yes.

21 **Q. Do network attorneys lose access to the  
22 attorney portal once they're no longer network  
23 attorneys?**

24 MR. MULLALY: Objection. Scope.

25 You can answer.

Page 28

1 A. We allow them to main access for a period of  
2 time for runoff claims purposes so they can submit any  
3 claims that they might have that are still outstanding  
4 for their -- for members they are serving.

5 **Q (By Mr. Ruiz) I'm going to back up to this  
6 idea of the board of directors, who Mr. Murray reports  
7 to.**

8 **Again, having served on some boards, I'm  
9 assuming that you occasionally go before the board of  
10 directors yourself as general counsel. Is that fair?**

11 MR. MULLALY: Objection to form and scope.  
12 You can answer.

13 A. Yes.

14 **Q (By Mr. Ruiz) Now, was the board of  
15 directors given any information relating to the McNae  
16 claim before or on November 20th, 2023?**

17 MR. MULLALY: Objection. Scope.  
18 You can answer.

19 A. No.

20 **Q (By Mr. Ruiz) And what about anytime before  
21 this litigation was filed?**

22 MR. MULLALY: Same objection.  
23 You can answer.

24 A. No.

25 **Q (By Mr. Ruiz) Mr. Murray is the president of**

7 (Pages 25 to 28)

Page 29

1 the board. Is that -- or the chairman of the board?

2 A. No.

3 MR. MULLALY: Objection to form.

4 **Q (By Mr. Ruiz) Who's the chairman of the**  
5 **board of directors?**

6 A. His name is Werner Nicoll.

7 MR. RUIZ: Please mark this Exhibit 1.  
8 (Exhibit No. 1 introduced.)

9 **Q (By Mr. Ruiz) This is the fourth amended**  
10 **notice of Rule 30(b)(6) deposition. You're shown here**  
11 **in the color purple.**

12 **Do you see that?**

13 A. Yes.

14 **Q. I'm going to show you the topics, and focus**  
15 **on the ones that are highlighted in purple. Let me know**  
16 **when I can go down.**

17 A. Okay.

18 Okay.

19 Okay.

20 Okay?

21 **Q. Are the topics that have been highlighted in**  
22 **purple, is that consistent with your -- with your**  
23 **understanding of which topics you've been designated to**  
24 **testify about on behalf of ARAG?**

25 A. Yes.

Page 30

1 **Q. What's your understanding of your**  
2 **responsibilities as a Rule 30(b)(6) witness?**

3 A. Basically to be the designated person to  
4 share information on those topics with you in the  
5 deposition process.

6 **Q. And what do you understand to be your**  
7 **responsibilities before you get here to the deposition?**

8 A. To have reasonably looked into all of the  
9 topics that were designated to me to make sure I had an  
10 understanding.

11 **Q. Is today the first time you've ever served as**  
12 **a Rule 30(b)(6) witness?**

13 A. In my recollection, yes.

14 **Q. Like I said on Friday, you're here as the**  
15 **corporation designee. Unless I specifically say**  
16 **otherwise, all of my questions are asking for ARAG's**  
17 **testimony.**

18 **Understood?**

19 A. Yes.

20 **Q. And so even though it's a little strange, if**  
21 **I say the word "you," I'm talking about ARAG, not you as**  
22 **a human being.**

23 **Understood?**

24 A. Yes.

25 **Q. And if I have a question directly addressed**

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1 to you as a human being, which I may do, I promise I'm  
2 going to do my best to make that clear. So, for  
3 example, I would say: Would you, Ms. Cosimano  
4 individually, testify on the question of whether you  
5 were present at such-and-such meeting.

6 **Understood?**

7 A. Yes.

8 **Q. If ARAG does not know the answer to the**  
9 **question or if you as the designee are not prepared to**  
10 **answer the question on behalf of ARAG, would you tell**  
11 **me?**

12 A. Yes.

13 **Q. Describe generally what you did to prepare**  
14 **for today's deposition.**

15 A. I met with individuals both inside and  
16 outside the organization, just to make sure I understood  
17 the different topics.

18 I had meetings with Mike Mullaly and Ben  
19 Roesch as well as Meagen Adams, and Kathy Miller  
20 participated in those meetings.

21 I also had conversation with David Murray,  
22 Jennifer Beck, Mary Jo Hudson, as well as reviewing  
23 statutes and the documents that had been shared with  
24 you.

25 **Q. You said you met with individuals both inside**

Page 32

1 **and outside of the organization. Let's just name off**  
2 **names.**

3 **Let's start with the people inside. Can you**  
4 **name the names?**

5 A. That would be Meagen Adams, Kathy Miller,  
6 David Murray, Jennifer Beck.

7 I think that's all the internal.

8 **Q. And outside the organization, you mentioned**  
9 **Mr. Mullaly, Mary Jo Hudson.**

10 A. Yes.

11 **Q. Anyone else?**

12 A. Ben Roesch.

13 **Q. Was Mr. -- how do you pronounce his last**  
14 **name?**

15 A. I said Roesch. I'm a hundred percent  
16 incorrect.

17 MR. RUIZ: Mr. Roesch, speak up if we're  
18 getting it wrong. We want to be respectful.

19 MR. ROESCH: I appreciate that. It's Roesch,  
20 like sort of a soft E, like fresh flowers or something  
21 like that.

22 THE WITNESS: Thank you.

23 MR. RUIZ: That sounds great.

24 MR. ROESCH: A lot of people say it different  
25 ways, so...

8 (Pages 29 to 32)

Page 33

1 THE WITNESS: Same.  
 2 **Q (By Mr. Ruiz) Well, let's start with**  
 3 **Mr. Roesch. Did Mr. Roesch have having to do with the**  
 4 **underlying facts?**  
 5 MR. MULLALY: Object to form.  
 6 A. Yeah, could you --  
 7 **Q (By Mr. Ruiz) Is he just an attorney in this**  
 8 **case or was he involved in the handling of the McNae**  
 9 **claims?**  
 10 A. He's an attorney in this case.  
 11 **Q. And so did Mr. Roesch provide you with any**  
 12 **facts that you're relying on here today?**  
 13 A. Relevant to the underlying case, no.  
 14 **Q. He was giving you legal advice to help you**  
 15 **get ready, which is privileged and I don't need to hear**  
 16 **about them. Okay?**  
 17 A. Yes.  
 18 **Q. So then let's go back to the folks who were**  
 19 **inside.**  
 20 **Ms. Adams was here Friday. You were here;**  
 21 **right?**  
 22 A. Yes.  
 23 **Q. And she said that she met with you -- with**  
 24 **you, Mr. Mullaly, Mr. Roesch, and Ms. Miller in two**  
 25 **meetings last week.**

Page 34

1 **Is that true?**  
 2 A. Yes.  
 3 **Q. Did you meet with Ms. Adams any other time**  
 4 **besides those two meetings in preparation for today's**  
 5 **deposition?**  
 6 A. No.  
 7 **Q. What about with Kathy Miller? Did you meet**  
 8 **with Kathy Miller outside of those two meetings?**  
 9 A. No.  
 10 **Q. Let's start this next -- the timeline of the**  
 11 **next questions at 9:30 a.m. on Friday, and it's going to**  
 12 **run through today.**  
 13 **Did you have any meetings with people inside**  
 14 **or outside the organization since that time, just on**  
 15 **9:30 Friday morning?**  
 16 A. Yes.  
 17 **Q. Who?**  
 18 A. You said specifically inside? Or inside or  
 19 outside?  
 20 **Q. Inside or outside.**  
 21 A. Okay.  
 22 Between then, Mike Mullaly, Ben Roesch, David  
 23 Murray, Jen Beck, Mary Jo Hudson.  
 24 **Q. Now, let's talk about before 9:30 on Friday**  
 25 **morning. Did you have any meetings with Mr. Murray,**

Page 35

1 **Ms. Beck, or Ms. Hudson before then in preparation for**  
 2 **today's deposition?**  
 3 A. No.  
 4 **Q. So your preparatory meetings with those three**  
 5 **people happened since nine o'clock last Friday?**  
 6 A. Yes.  
 7 **Q. So let's start there.**  
 8 **Did you meet with them together or talk with**  
 9 **them together or separately?**  
 10 A. Separately.  
 11 MR. MULLALY: Object to form.  
 12 **Q (By Mr. Ruiz) When did you speak with**  
 13 **Mr. Murray?**  
 14 A. I spoke with him Saturday evening.  
 15 **Q. How long?**  
 16 A. 15 minutes.  
 17 **Q. What was the purpose of the call? Or was it**  
 18 **a call or was it something else?**  
 19 A. It was a call.  
 20 **Q. What was the purpose?**  
 21 A. It was to ensure I was recalling the events  
 22 of his understanding and knowledge around the McNae case  
 23 prior to giving my deposition today.  
 24 **Q. What did you tell Mr. Murray?**  
 25 MR. MULLALY: Object to form.

Page 36

1 You can answer.  
 2 A. I asked him -- I asked -- more inquired to  
 3 him as to his recollection of a meeting that we had in  
 4 November and any other relevant recollections he might  
 5 have had around this case.  
 6 **Q. Who did most of the talking on the call, you**  
 7 **or Mr. Murray?**  
 8 A. I would say it was pretty even.  
 9 **Q. What did Mr. Murray say?**  
 10 A. He shared his recollection being around  
 11 receiving information and updates about the case and  
 12 where it was and just who -- what -- who else was in  
 13 attendance at the meeting, in his recollection of who  
 14 else was in attendance.  
 15 **Q. Anything else?**  
 16 A. No.  
 17 **Q. So who else was in attendance?**  
 18 A. Jennifer Beck.  
 19 **Q. Anyone else?**  
 20 A. No.  
 21 **Q. What specifically did Mr. Murray tell you**  
 22 **about what he remembered about receiving information and**  
 23 **updates about where the McNae claim was?**  
 24 A. He recalled wondering what the status was and  
 25 understanding the mediation had not been successful.

9 (Pages 33 to 36)

Page 37

1 He recalled that the case had been continued.

2 **Q. Can you explain what you mean by that he**  
3 **recalled that the case had been continued, beginning**  
4 **with when it was continued and what it means to have**  
5 **been continued?**

6 MR. MULLALY: Objection to form.

7 You can answer.

8 A. Sure.

9 He recalled being -- that that information  
10 was shared with him; that the case was continued to  
11 February.

12 As far as his understanding, I don't think it  
13 was that detailed as to what his understanding would be  
14 of that. More so just recalled the fact that we had  
15 received information that the case was continued.

16 **Q (By Mr. Ruiz) Any other facts that**  
17 **Mr. Murray provided you on this call?**

18 A. We talked about the questions around the  
19 billing insight, like having discussions around the  
20 billing of the two attorneys on the case and that's a  
21 fairly unusual situation for us. And so he did remember  
22 that there were two attorneys.

23 **Q. Anything more specific that you remember that**  
24 **he told you on that specific topic?**

25 MR. MULLALY: Objection to form.

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1 You can answer.

2 A. Nothing specific.

3 **Q (By Mr. Ruiz) You used the word "insight."**  
4 **Did you mean it to mean anything other than the word --**  
5 **the regular English meaning of the word "insight"?**

6 MR. MULLALY: Objection to form.

7 You can answer.

8 **Q (By Mr. Ruiz) I guess I'm asking, is insight**  
9 **a computer program, a term inside of ARAG, something**  
10 **like that, or is it just -- you just mean insight?**

11 A. No, just mean insight.

12 **Q. Understood.**

13 **Do you meet with Mr. Murray regularly to talk**  
14 **about specific claims?**

15 MR. MULLALY: Objection. Scope.

16 You can answer.

17 A. No.

18 **Q (By Mr. Ruiz) Does Mr. Murray regularly take**  
19 **interest in specific insurance claims that are pending**  
20 **in ARAG?**

21 MR. MULLALY: Same objection.

22 You can answer.

23 A. Not generally.

24 **Q (By Mr. Ruiz) How often does it happen?**

25 MR. MULLALY: Same objection.

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1 A. I would say it's on rare occasion. It would  
2 be if there's something very unusual.

3 **Q (By Mr. Ruiz) How did he catch wind of the**  
4 **McNae claims?**

5 MR. MULLALY: Objection to form. Scope.  
6 You can answer.

7 A. I can't say for sure. I don't know.

8 **Q (By Mr. Ruiz) You don't know how he found**  
9 **out about them first?**

10 MR. MULLALY: Same objection.

11 A. Right.

12 **Q (By Mr. Ruiz) We'll come back to that**  
13 **meeting, but before -- before I leave the subject of**  
14 **that meeting, were there any other meetings that you had**  
15 **with Mr. Murray about the McNae claims?**

16 MR. MULLALY: Objection to scope.

17 You can answer.

18 A. I'm sure it was a topic of discussion at  
19 other meetings, just updates, where is everything at.

20 I would say those were probably more from the  
21 standpoint of me as the attorney for ARAG giving like  
22 updates on where this litigation is.

23 **Q (By Mr. Ruiz) Have we exhausted what you**  
24 **learned from Mr. Murray on Saturday? Is there anything**  
25 **more specific?**

Page 40

1 MR. MULLALY: Objection to form.

2 A. No.

3 **Q (By Mr. Ruiz) Let's turn to Jennifer Beck.**  
4 **Remind me what Jennifer Beck's title is.**

5 A. Vice president of customer experience and  
6 business intelligence, I believe.

7 **Q. When did you speak with Ms. Beck in**  
8 **preparation for today's deposition?**

9 A. Sunday morning.

10 **Q. How long did it last?**

11 A. Maybe ten minutes.

12 **Q. When did you ask to set up the time to talk**  
13 **with her?**

14 I'm assuming that's how it happened, but --  
15 is that how it happened, that you asked to talk with  
16 her?

17 A. Yes.

18 (Crosstalk)

19 A. Sunday morning.

20 **Q. You asked on Sunday morning?**

21 A. Yes.

22 **Q. After you spoke with Mr. Murray?**

23 A. Yes. I spoke to him Saturday night.

24 **Q. And did you do it over email or text or**  
25 **something else?**

10 (Pages 37 to 40)

Page 41

1 A. I asked over text.  
 2 **Q. What about Mr. Murray? Did you ask him**  
 3 **email, text, or something else?**  
 4 A. Text.  
 5 **Q. All right. You have -- so you have their**  
 6 **numbers to text them on work-related things sometimes.**  
 7 **Is that fair?**  
 8 A. On rare occasion, yes.  
 9 **Q. Have you searched your text messages for**  
 10 **texts relating to the McNae claim?**  
 11 MR. MULLALY: Objection to scope.  
 12 You can answer.  
 13 A. No.  
 14 **Q (By Mr. Ruiz) Do you know --**  
 15 **(Crosstalk)**  
 16 **Q. Do you know if Mr. Murray has?**  
 17 MR. MULLALY: Objection to form and scope.  
 18 You can answer.  
 19 A. I don't know.  
 20 **Q (By Mr. Ruiz) Do you know if Ms. Beck has?**  
 21 MR. MULLALY: Same objection.  
 22 You can answer.  
 23 A. I don't know.  
 24 **Q (By Mr. Ruiz) So what did you tell Ms. Beck**  
 25 **was the reason you were calling her?**

Page 42

1 A. In text, I just asked if she was available  
 2 for a call.  
 3 **Q. How did the call go?**  
 4 MR. MULLALY: Objection to form.  
 5 You can answer.  
 6 A. It was fine.  
 7 **Q (By Mr. Ruiz) What did you learn in the**  
 8 **call?**  
 9 A. Jen had -- she had recollection of the  
 10 meeting and generally that we spoke about the McNae case  
 11 and the status of where it was.  
 12 She had less recollection about any specifics  
 13 relevant to it. She didn't recall the content of the  
 14 discussion.  
 15 **Q. Was this meeting a regular meeting that the**  
 16 **three of you had or was it a special meeting that was**  
 17 **put together to discuss McNae?**  
 18 MR. MULLALY: Object to scope.  
 19 A. We had had a leadership meeting that day, and  
 20 this was at the end of the leadership meeting. We --  
 21 the three of us were in the room. It was not a  
 22 scheduled meeting.  
 23 **Q (By Mr. Ruiz) A sidebar, as it were, for a**  
 24 **bigger meeting?**  
 25 A. Yes.

Page 43

1 **Q. And how long did that meeting last, the**  
 2 **sidebar part?**  
 3 MR. MULLALY: Objection. Scope.  
 4 A. Probably 15, 20 minutes.  
 5 **Q (By Mr. Ruiz) And that was the only time**  
 6 **you spoke with Ms. Beck in preparation for today's**  
 7 **deposition; fair?**  
 8 A. Yes.  
 9 **Q. Sometimes I take these long breaks because**  
 10 **I'm just trying to remember everything that's happened**  
 11 **so far. So I apologize for that.**  
 12 **Ms. Adams described the two meetings she had**  
 13 **with you, Mr. Roesch, Mr. Mullaly, and Ms. Miller last**  
 14 **week.**  
 15 **Do you remember that?**  
 16 A. Yes.  
 17 **Q. And she recalled the factual information that**  
 18 **you provided her. You were here for that testimony as**  
 19 **well?**  
 20 A. Yes.  
 21 **Q. Was there any factual information that you**  
 22 **provided Ms. Adams that she didn't remember when she was**  
 23 **answering those questions?**  
 24 MR. MULLALY: Object to form and scope.  
 25 You can answer.

Page 44

1 A. I'm trying to remember the exact factual  
 2 information that was pertaining to. There was a lot  
 3 said on Friday.  
 4 I know that there was one -- it was more a  
 5 nuance as to how Meagen was sharing that I felt -- it  
 6 was maybe difficult for her to express --  
 7 **Q. Okay.**  
 8 A. -- or that she was maybe having trouble  
 9 articulating. And it was around the concerns about the  
 10 settlement and the -- kind of ARAG's thoughts around  
 11 that or perception of it.  
 12 My recollection is that really the concerns  
 13 stemmed from the communication that came in the updates  
 14 from one of the two attorneys, Casey, that indicated an  
 15 openness to resolution through a public disclosure and  
 16 specified that a public statement would be what would be  
 17 necessary for the parties to resolve and indicated an  
 18 openness to that, that there was an ask that the  
 19 plaintiff provide that language.  
 20 And I think based on that perception was why  
 21 ARAG had agreed to fund a mediation between the parties,  
 22 which is very unusual. That's a noncovered cost under  
 23 the policy, but in hopes of helping them to bring this  
 24 matter to resolution, it was something that we had  
 25 agreed to.

11 (Pages 41 to 44)



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1 **Q. That was concern number one that Ms. Adams**  
 2 **tried to articulate on Friday; right?**

3 A. Yes.

4 **Q. Any more specificity that you can provide on**  
 5 **concern number one?**

6 MR. MULLALY: Same objections.

7 You can answer.

8 A. No. I think that's -- that was what I saw  
 9 that I thought she was struggling to articulate.

10 **Q (By Mr. Ruiz) Anything else factually that**  
 11 **you had provided to Ms. Adams in those two meetings that**  
 12 **maybe she either forgot or had difficulty conveying?**

13 A. I think the concerns around duplication of  
 14 efforts, it was less about the duplication of efforts on  
 15 the attorneys' parts, more about the time spent by the  
 16 two attorneys in conversation with one another and some  
 17 inconsistencies in the billing in those.

18 So because of the nature of this claim --  
 19 understand the case had started in August of '22 and, by  
 20 November of '23, was in excess of \$800,000, that, in and  
 21 of itself, was a very unusual circumstance that would  
 22 draw attention to a claim like this or a case like this.  
 23 And so I think there was questions or wanting to take a  
 24 look at that to ensure that the time spent seemed like  
 25 efficient use of time and seemed like accurate use of

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1 time by the attorneys.

2 **Q. All right. Anything else that Ms. Adams may**  
 3 **not have been able to recall or articulate? And we're**  
 4 **talking about just the facts that you had provided her**  
 5 **in those two meetings.**

6 A. Right.

7 I think that's it.

8 **Q. What was Ms. Miller's role in these two**  
 9 **meetings?**

10 A. Really more as a -- in case there was an  
 11 output or a something that had to be done as a result  
 12 more of a technician.

13 **Q. She was not there to provide you facts to**  
 14 **help you testify; is that fair?**

15 A. I think that's fair.

16 MR. RUIZ: All right. Can we go off the  
 17 record?

18 MR. MULLALY: Yep.

19 THE VIDEOGRAPHER: Going off the record. The  
 20 time now is approximately 10:33 a.m.

21 (Recess 10:33 a.m. to 10:43 a.m.)

22 THE VIDEOGRAPHER: Back on the record. The  
 23 time now is approximately 10:43 a.m.

24 **Q (By Mr. Ruiz) You mentioned looking at**  
 25 **documents to help you get ready for today's deposition.**

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1 True?

2 A. Yes.

3 **Q. Which documents?**

4 A. They were the documents that had been  
 5 submitted to you.

6 **Q. Any others?**

7 A. Like some regulations, like -- but nothing  
 8 outside of that.

9 **Q. Which regs?**

10 (Crosstalk)

11 **Q. Sorry. Let me back up.**

12 **Which regulations?**

13 A. The Washington regulations as well as really  
 14 our filing info for Washington, some outside regulation.  
 15 And that was just to confirm that, yes, we are -- we are  
 16 a casualty company in Washington.

17 And I think that's it.

18 Oh, ERISA. ERISA regulations.

19 **Q. So I'm hearing three types of regulations.**

20 **A Washington Administrative Code regulation**  
 21 **is number one. True?**

22 A. True.

23 **Q. And the filings that ARAG has made with the**  
 24 **Office of the Insurance Commissioner here in the state**  
 25 **of Washington, that's two. True?**

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1 A. Yes.

2 **Q. And three, some regulations that relate to**  
 3 **ERISA, which is a federal law. Correct?**

4 A. Yes.

5 **Q. So let me -- let's start with the first ones,**  
 6 **the Washington regulations, because Ms. Adams said**  
 7 **something about a group plan regulation but she couldn't**  
 8 **really elaborate.**

9 **ARAG policy is not in a group health plan.**

10 **Do you agree?**

11 A. I agree.

12 MR. MULLALY: Objection.

13 You can answer.

14 **Q (By Mr. Ruiz) Do you know what Ms. Adams was**  
 15 **referring to when she was talking about regulations that**  
 16 **applied to group plans?**

17 MR. MULLALY: Object to form and scope.

18 You can answer.

19 A. Our plan is a group insurance plan. We  
 20 don't -- it's not an individual policy. You can only  
 21 access it as a member of a group or somebody who is no  
 22 longer eligible under one of our group policies, unless  
 23 you purchase specifically an individual plan that we --  
 24 we don't sell as an insurance product.

25 **Q (By Mr. Ruiz) But does it make a difference**

12 (Pages 45 to 48)

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1 as to what ARAG says are the right regulations that  
2 apply?

3 MR. MULLALY: Object to form and scope.  
4 You can answer.

5 A. I don't think it's the right regulations. It  
6 might be timing requirements under regulations.

7 **Q (By Mr. Ruiz) Do you have the regulations**  
8 **with you?**

9 A. No.

10 **Q. Do you know the numbers of the provisions**  
11 **that ARAG says -- well, strike that.**

12 **Do you have -- do you know the numbers of the**  
13 **provisions that you reviewed?**

14 A. No.

15 **Q. Did you review the unfair claims settlement**  
16 **practices regulation?**

17 A. Yes.

18 **Q. Are there different claims settlement**  
19 **practices regulations that apply to group plans?**

20 MR. MULLALY: Object to form and scope.

21 You can answer.

22 A. I believe, again, it's the time frames  
23 under --

24 (Crosstalk)

25 **Q (By Mr. Ruiz) Sorry. I don't -- I think**

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1 casualty in Washington.

2 **Q. This is a point of clarification, again, on**  
3 **something that Ms. Adams said on Friday.**

4 **She did not believe that legal insurance was**  
5 **property casualty insurance. But now the clarification**  
6 **is that, according to ARAG's filings in the state of**  
7 **Washington, it's a type of casualty insurance. Is that**  
8 **fair?**

9 A. Yes.

10 MR. MULLALY: Object to form and scope.

11 **Q (By Mr. Ruiz) Any other information that you**  
12 **got from the filings with the insurance commissioner?**

13 MR. MULLALY: Object to scope.

14 You can answer.

15 A. No.

16 **Q (By Mr. Ruiz) Then ERISA, what specifically**  
17 **that's ERISA related did you review?**

18 A. I can't remember exactly what it's called,  
19 but it is around claims settlement practices under  
20 ERISA.

21 **Q. Anything else?**

22 MR. MULLALY: Object to form and scope.

23 You can answer.

24 A. No.

25 **Q (By Mr. Ruiz) Where did you get these?**

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1 **that's the first time we've interrupted each other and**  
2 **I'm sorry. But we've made it an hour. That's a record.**

3 **I think what I'm hearing you say, but you**  
4 **tell me if I'm wrong, that embedded within those**  
5 **regulations are different time frames for individual**  
6 **policies versus a policy that's a group plan.**

7 **Is that fair?**

8 MR. MULLALY: Same objection.

9 A. Yes, that's fair.

10 **Q (By Mr. Ruiz) So let's talk about the second**  
11 **category of regulations or regulatory materials. These**  
12 **are the files at ARAG, the filings that are made with**  
13 **the insurance commissioner.**

14 **Where did you get those from?**

15 A. And I think -- probably for clarity, that one  
16 was less that I checked -- more so that I checked to  
17 make sure what type of insurance we were in Washington.  
18 So internal, like are we a -- in some states, we're  
19 considered legal insurance, as an example. In some  
20 states, we're considered property and casualty. And I  
21 just wanted to ensure that in Washington, what exactly  
22 were we specified.

23 And that's a legal insurance -- there's a  
24 legal insurance primer, essentially, that was put out  
25 that specified that legal insurance is miscellaneous

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1 A. The Washington -- I researched -- I Googled  
2 in the Washington Administrative Code "ERISA filing," I  
3 believe. I received in an email.

4 **Q. From your attorneys, probably?**

5 A. Yes.

6 **Q. In getting ready for today's deposition, did**  
7 **you speak with Derek Overton?**

8 A. No.

9 **Q. Did you speak with Chris Thomas?**

10 A. No.

11 **Q. I know you're a member of that**  
12 **multifunctional team that assisted in drafting language,**  
13 **but did you speak with anyone else in preparation for**  
14 **today's deposition?**

15 A. No.

16 **Q. Oh, I almost forgot to ask. Mary Jo Hudson,**  
17 **you spoke with Mary Jo Hudson in preparation for today's**  
18 **deposition; correct?**

19 A. Yes.

20 **Q. When did you do that?**

21 A. Sunday.

22 **Q. What time?**

23 A. I believe it was early afternoon.

24 **Q. How long?**

25 A. 10 -- 10, 15 minutes.

13 (Pages 49 to 52)

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1 **Q. When did you ask to speak with her?**  
 2 A. Slightly before that. Asked if she was  
 3 available.  
 4 **Q. Did you do that over email or text?**  
 5 A. Text.  
 6 **Q. Other than yesterday for 10 or 15 minutes,**  
 7 **did you speak with Ms. Hudson in preparation for today's**  
 8 **deposition?**  
 9 A. No.  
 10 **Q. In the call yesterday, was that on the phone?**  
 11 A. Yes.  
 12 MR. MULLALY: Object to form.  
 13 A. Yes.  
 14 **Q (By Mr. Ruiz) And the only topic discussed**  
 15 **was getting ready for today's deposition?**  
 16 A. Yes.  
 17 **Q. And did Ms. Hudson provide you with any**  
 18 **facts?**  
 19 A. Yes.  
 20 **Q. Tell me, please.**  
 21 MR. MULLALY: Object to form.  
 22 And please testify only to facts.  
 23 A. We talked about basically the timing of some  
 24 communications that we had had, phone call, regarding  
 25 the McNae matter. And we requested assistance from

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1 Mary Jo with -- basically in the sense of a coverage  
 2 opinion and some potential legal issues and, after that,  
 3 had sought assistance with drafting a communication  
 4 after our claims determination was made then.  
 5 And then --  
 6 (Crosstalk)  
 7 **Q (By Mr. Ruiz) What was the time frame of**  
 8 **that?**  
 9 A. It would have been after November 20th.  
 10 **Q. Okay. I didn't mean to cut you off. You**  
 11 **said "and then..."**  
 12 A. Also some assistance in like monitoring of  
 13 the case. Essentially she checked on some status, like  
 14 where was the -- what was the status of the case as far  
 15 as the attorneys' involvement and whether or not they  
 16 were still associated as attorneys on the case.  
 17 And I think that's the extent.  
 18 **Q. Any other facts that Ms. Hudson provided you?**  
 19 A. No.  
 20 **Q. I think we've covered everyone you spoke with**  
 21 **in preparation for today's deposition. Do you think so?**  
 22 A. Yes.  
 23 **Q. The following questions are going to relate**  
 24 **to topics 17, 18, and 19.**  
 25 **Topic 17 was: All duties owed by insurers**

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1 and their agents to the insureds in claims for benefits  
 2 under ARAG policies.  
 3 **Topic 18 is: The obligation of your**  
 4 **representatives to comply with WAC regulations and/or**  
 5 **any other industry standards and claims under ARAG**  
 6 **policies.**  
 7 **And number 19 is: Industry standards**  
 8 **relating to the handling of insurance claims, such as**  
 9 **those of plaintiffs, as understood by you, "you" meaning**  
 10 **ARAG.**  
 11 **Let me dive into these questions. And again,**  
 12 **when I say "you," I mean ARAG.**  
 13 **Do you agree that one of the reasons a person**  
 14 **buys insurance is to buy peace of mind?**  
 15 MR. MULLALY: Object to scope.  
 16 You can answer.  
 17 A. Yes.  
 18 **Q (By Mr. Ruiz) Do you agree that an insurance**  
 19 **company has a duty to deal fairly and in good faith with**  
 20 **its insureds?**  
 21 A. Yes.  
 22 **Q. Do you agree an insurance company must treat**  
 23 **its policyholders' interests with equal regard as it**  
 24 **does its own interests?**  
 25 A. Yes.

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1 **Q. When I say "policyholder" in these questions,**  
 2 **do you understand that to mean the McNaes?**  
 3 A. Yes. We would call them certificate holders,  
 4 but I understand what you mean.  
 5 **Q. Do you agree the claims handling process is**  
 6 **not supposed to be an adversarial or competitive**  
 7 **process?**  
 8 A. Can you repeat -- can you repeat that?  
 9 **Q. Yes. I'll rephrase it a little too.**  
 10 A. Thank you.  
 11 **Q. Do you agree that the claims handling process**  
 12 **is not supposed to be adversarial or competitive against**  
 13 **the insureds?**  
 14 MR. MULLALY: Object to scope.  
 15 You can answer.  
 16 A. Yes.  
 17 **Q (By Mr. Ruiz) Do you agree an insurance**  
 18 **company should assist the policyholder with making the**  
 19 **claim?**  
 20 MR. MULLALY: Object to form.  
 21 You can answer.  
 22 A. I'm not sure I understand the question.  
 23 **Q (By Mr. Ruiz) Let me rephrase it a little.**  
 24 A. Sure.  
 25 **Q. Do you agree an insurance company should give**

14 (Pages 53 to 56)



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1 reasonable assistance to the insured with a claim?

2 A. Yes.

3 **Q. Do you agree the insurance company must**  
4 **disclose and explain to its insureds all benefits,**  
5 **coverages, and time limits that may apply?**

6 A. Yes.

7 **Q. Do you agree the insurance company has a duty**  
8 **to act reasonably and fairly in interpreting and**  
9 **applying its policy provisions?**

10 A. Yes.

11 **Q. Do you agree claims decisions should be made**  
12 **without regard to effect on company profitability?**

13 A. Yes.

14 **Q. Do you agree an insurance company must**  
15 **conduct a full, fair, and prompt investigation of the**  
16 **claim at its own expense?**

17 A. Yes.

18 **Q. Do you agree an insurance company must fully,**  
19 **fairly, and promptly evaluate and adjust the claim?**

20 A. Yes.

21 **Q. Do you agree an insurance company has an**  
22 **obligation to investigate and search for evidence to**  
23 **support the claim?**

24 MR. MULLALY: Object to scope.

25 You can answer.

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1 A. Can you clarify that question for me?

2 **Q (By Mr. Ruiz) Sure.**

3 **Do you -- let me break it up.**

4 A. Sure.

5 **Q. Do you agree an insurance company has an**  
6 **obligation to investigate evidence to support the claim?**

7 MR. MULLALY: Object to form and scope.

8 You can answer.

9 A. Yes.

10 **Q (By Mr. Ruiz) Do you agree an insurance**  
11 **company has an obligation to investigate and evaluate**  
12 **all benefits to which the policyholder may be entitled?**

13 A. Yes.

14 **Q. Do you agree an insurance company has an**  
15 **obligation to document in a claim file the events that**  
16 **occur in a claim, including steps taken to investigate?**

17 MR. MULLALY: Object to form.

18 You can answer.

19 A. Can you restate that?

20 **Q (By Mr. Ruiz) Sure.**

21 **Do you agree an insurance company has an**  
22 **obligation to document in the claim file the events that**  
23 **occur in a claim?**

24 MR. MULLALY: Same objection.

25 You can answer.

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1 A. The -- I think "the events" is -- might be  
2 what's tripping me up.

3 **Q (By Mr. Ruiz) Sure. I'll ask it in a**  
4 **different way.**

5 A. Sure.

6 **Q. Do you agree an insurance company has an**  
7 **obligation to document in the claim file what it does in**  
8 **handling the claim?**

9 MR. MULLALY: Object to form.

10 You can answer.

11 A. It might just be semantics, but I -- I -- I  
12 agree a claims file should be complete. It may just be  
13 the wording that's tripping me up.

14 **Q (By Mr. Ruiz) In what way should the claim**  
15 **file be complete?**

16 A. I think --

17 MR. MULLALY: Objection to scope.

18 You can answer.

19 THE WITNESS: Thank you.

20 A. I think it was the way that you worded it was  
21 very broad. And that might be the intention. I may  
22 have just misunderstood how you were wording it.

23 **Q (By Mr. Ruiz) Do you agree an insurance**  
24 **company may not deny a claim or part of a claim based on**  
25 **speculation?**

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1 MR. MULLALY: Object to scope.

2 You can answer.

3 A. Yes.

4 **Q (By Mr. Ruiz) Do you agree an insurance**  
5 **company may not deny a claim or a part of a claim based**  
6 **on information that is biased?**

7 MR. MULLALY: Object to form and scope.

8 You can answer.

9 A. That is biased? Can you explain biased to  
10 me?

11 **Q (By Mr. Ruiz) Sure.**

12 **Biased meaning not neutral or not fair toward**  
13 **either side.**

14 A. Yes.

15 **Q. So do you agree?**

16 A. Yes.

17 **Q. Do you agree that for a full or partial**  
18 **denial of a claim, the insurance company must give a**  
19 **written explanation that points to facts and policy**  
20 **provisions?**

21 A. Yes.

22 MR. MULLALY: Object to scope.

23 **Q (By Mr. Ruiz) Do you agree an insurance**  
24 **company -- well, strike that.**

25 **Do you agree an insurance company has an**

15 (Pages 57 to 60)

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1 **obligation to explain to the insured how it is**  
2 **determining the amount of benefits to pay?**

3 MR. MULLALY: Object to scope.

4 You can answer.

5 **Q (By Mr. Ruiz) I can tell from your face**  
6 **that --**

7 A. Yeah. I --

8 **Q. -- I should reask. Is that okay?**

9 A. Yes.

10 **Q. Here's a different formulation. And let me**  
11 **know if this one is something that maybe is more**  
12 **understandable.**

13 **Do you agree an insurance company has an**  
14 **obligation to explain how it is valuing the claim?**

15 MR. MULLALY: Object to form.

16 You can answer.

17 A. Is valuing the claim.

18 "Valuing" is -- is odd for us, just because  
19 we're paying attorneys' fees and not like a property  
20 claim like a roof or a house. And so that "valuing" is  
21 giving me pause.

22 **Q (By Mr. Ruiz) Do you agree -- well, strike**  
23 **that.**

24 **Let me -- you know what? Here we have a**  
25 **situation where two attorneys were terminated.**

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1 A. Yes.

2 **Q. And so let me ask it a different way.**

3 **Do you agree an insurance company that**  
4 **provides legal services like ARAG -- well, it doesn't --**  
5 **let me back up. Strike that.**

6 **Do you agree a legal insurance company has an**  
7 **obligation to explain to the insured why it is deciding**  
8 **to terminate their attorney?**

9 MR. MULLALY: Object to form and scope.

10 You can answer.

11 A. I would say it depends. I think it depends.

12 **Q (By Mr. Ruiz) What does it depend on?**

13 MR. MULLALY: Same objection.

14 You can answer.

15 A. For me, it would be whether or not that  
16 impacted their coverage, so if it was a denial of  
17 coverage versus the avenue through which they can get  
18 coverage.

19 So if we use this as an example, the  
20 termination of those two attorneys didn't -- didn't  
21 change the underlying coverage. The coverage was still  
22 available. It was just those attorneys were not the  
23 avenue by which they could get it.

24 **Q (By Mr. Ruiz) As far as the terminations of**  
25 **the McNaes' attorneys go, ARAG did not have an**

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1 **obligation to explain to the McNaes the reasons why?**  
2 **(Crosstalk)**

3 MR. MULLALY: Object to form and scope.

4 You can answer.

5 A. I think I reviewed that as not a denial of  
6 coverage. Just the inability of the McNaes to use these  
7 two specific attorneys.

8 **Q (By Mr. Ruiz) My question is a little bit**  
9 **different.**

10 A. Okay.

11 **Q. Did ARAG have an obligation to explain to the**  
12 **McNaes the reasons it was terminating the attorneys?**

13 MR. MULLALY: Same objection.

14 You can answer.

15 A. I say no. Under this circumstance, no.

16 **Q (By Mr. Ruiz) Do you agree an insurance**  
17 **company may not misrepresent facts or policy provisions?**

18 A. Yes.

19 **Q. Do you agree an insurance company that's**  
20 **handling a claim in Washington has an obligation to**  
21 **comply with the claims handling regulations found at**  
22 **Washington Administrative Code 284-30?**

23 MR. MULLALY: Object to form and scope.

24 You can answer.

25 A. Not nec- -- I think it depends whether or

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1 not that is an ERISA claim or not.

2 **Q (By Mr. Ruiz) If it's not an ERISA claim,**  
3 **then would you agree?**

4 A. Yes.

5 **Q. Do you agree an insurance company must**  
6 **complete its investigation of a claim within 30 days**  
7 **after notification of a claim, unless the investigation**  
8 **cannot reasonably be completed within that time?**

9 A. The same. Unless it was an ERISA claim,  
10 which has different time frames.

11 **Q. I'm hearing: Yes, unless it's governed by**  
12 **ERISA.**

13 A. Yes.

14 **Q. Do you agree that claims handlers must keep**  
15 **a -- strike that.**

16 **Do you agree that anyone who is making claims**  
17 **decisions at an insurance company must keep an open mind**  
18 **when they're performing that work?**

19 MR. MULLALY: Object to form and scope.

20 You can answer.

21 A. That's an interesting -- I think "open mind"  
22 has a lot of potential definitions. Maybe you can state  
23 it different.

24 **Q (By Mr. Ruiz) I'll move on.**

25 A. Okay.

16 (Pages 61 to 64)

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1 **Q. Do you agree it is an unfair practice for a**  
 2 **person making a claims decision to decide the outcome of**  
 3 **the claim and then stick to that decision even when the**  
 4 **evidence points the other way?**

5 MR. MULLALY: Object to form.  
 6 You can answer.

7 A. Depending. The -- what way -- you said even  
 8 if it points a different way. Depending on what way,  
 9 agree. I think you can't stand firmly and not be  
 10 unmoving -- you can't be unmoving.

11 **Q (By Mr. Ruiz) Let's move on to topic 12,**  
 12 **which is: All claims handling activities by persons or**  
 13 **entities other than you, meaning ARAG, that relate to**  
 14 **plaintiffs' claims.**

15 **Besides what you testified earlier about**  
 16 **getting ready for today's deposition, did you do**  
 17 **anything special to testify on this particular topic?**

18 MR. MULLALY: Object to form.  
 19 You can answer.

20 A. I spoke with Mary Jo -- no, nothing other  
 21 than what we discussed.

22 **Q (By Mr. Ruiz) When I refer to claims**  
 23 **handling activity, I'm referring to any role regarding**  
 24 **the investigation or decision-making on the McNae claims**  
 25 **or in the preparation of documents.**

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1 **Understood?**

2 A. Yes.

3 **Q. So let's start with Mary Jo Hudson. She is**  
 4 **outside legal counsel for ARAG?**

5 A. Yes.

6 **Q. She works for the law firm of Squire, Patton,**  
 7 **Boggs U.S., LLP?**

8 A. Yes.

9 **Q. And you did speak with Ms. Hudson for a**  
 10 **little while in preparation for today's deposition, just**  
 11 **yesterday?**

12 A. Yes.

13 MR. MULLALY: Object to form.

14 **Q (By Mr. Ruiz) Now, was Ms. Hudson hired just**  
 15 **to work on McNae or does she have a different role than**  
 16 **that?**

17 A. Can you clarify the question?

18 **Q. You work with Ms. Hudson on more than just**  
 19 **the McNae claim; is that true?**

20 A. Yes.

21 **Q. Okay. So who is Mary Jo Hudson to ARAG?**

22 MR. MULLALY: Object to form.

23 You can answer.

24 A. We've worked with Mary Jo in the past. She  
 25 was a prior insurance commissioner for the State of

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1 Ohio, and so occasionally it's nice to get insight from  
 2 her on different regulatory questions we might have.  
 3 And so we've used her on a few different occasions over  
 4 the past maybe five years.

5 **Q (By Mr. Ruiz) Has she worked on other claims**  
 6 **besides the McNae claims?**

7 MR. MULLALY: Object and instruct --  
 8 (Crosstalk)

9 MR. RUIZ: It's just a yes-or-no question.

10 MR. MULLALY: Exactly.

11 **Q (By Mr. Ruiz) Just a yes-or-no question.**  
 12 **Has Mary Jo Hudson worked on any claims besides the**  
 13 **McNae claims?**

14 A. No.

15 **Q. Is Ms. Hudson currently retained by ARAG on**  
 16 **anything having -- not having to do with the McNae**  
 17 **claims? Again, just yes or no.**

18 A. No.

19 **Q. And whoever reads this transcript, I'm not**  
 20 **trying to be rude by boxing you into "yes" or "no." I'm**  
 21 **just trying to keep us safe from delving into privileged**  
 22 **communications.**

23 **Understood?**

24 A. Yes.

25 **Q. If you ever want to elaborate on any of your**

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1 **answers, I think you know you can just ask me and I'll**  
 2 **always let you. All right?**

3 A. (Witness nods head.)

4 **Q. Okay?**

5 A. Yes.

6 **Q. Mr. Mullaly might not like it, but I'll be**  
 7 **fine with it.**

8 **All right. So describe fully what Ms. Hudson**  
 9 **did with respect to the handling of the McNae claims.**

10 MR. MULLALY: And again, I'll just object and  
 11 instruct the witness not to reveal any privileged or  
 12 work product material in responding.

13 A. Really just communication. And then  
 14 providing some facts about the court file, docket, were  
 15 the only...

16 **Q (By Mr. Ruiz) Say that again. What was --**

17 A. Drafting --

18 **Q. -- the first one?**

19 A. Drafting of communication.

20 **Q. And then getting information from the court**  
 21 **file, which court file?**

22 A. I think I really mean docket.

23 **Q. That's fine. That's what I thought you**  
 24 **meant. But docket from Florida or docket from**  
 25 **Washington?**

17 (Pages 65 to 68)

Page 69

1 A. Florida.

2 **Q. When did -- I think you've already answered**  
 3 **this, and it's just I want to make sure -- sometimes I**  
 4 **forget.**

5 **When did Ms. Hudson start interacting with**  
 6 **the McNae insurance claim? When's the first time she**  
 7 **heard of it?**

8 MR. MULLALY: Object to form.

9 You can answer.

10 A. All I can say with confidence is it was after  
 11 November 20th.

12 **Q (By Mr. Ruiz) So she didn't have anything to**  
 13 **do with a decision to terminate the attorneys; true?**

14 A. True.

15 **Q. In the docket she provided you, the docket**  
 16 **information her office provided you were from the**  
 17 **Florida cases. Do you know if it was the federal, the**  
 18 **state, or both?**

19 A. I believe that was the federal. I'm not sure  
 20 the state case had -- had a case number yet at that  
 21 time.

22 **Q. What specific documents did Ms. Hudson assist**  
 23 **with? Just the names, again. We'll have to be careful**  
 24 **about what I dive into, but right now I'm just looking**  
 25 **for names or documents or types of documents.**

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1 A. It was assistance -- after she had provided  
 2 some guidance and we made our determination, she  
 3 assisted with the drafting of -- I think it was two  
 4 letters.

5 **Q. Which letters were those?**

6 A. They were in December and they were to the  
 7 McNaes, but I couldn't give you the specific -- I  
 8 couldn't give you the dates.

9 **Q. Were you a part of the conversations where**  
 10 **she was drafting and sending work product? And I'm**  
 11 **using the word "work product" in the generic sense, not**  
 12 **in the Federal Rules of Civil Procedure sense.**

13 A. Can you help me with what you mean by "work  
 14 product"?

15 **Q. Sure.**

16 A. Do you mean the letters?

17 **Q. Sure. I haven't gotten to the point of did**  
 18 **she draft the letters out of whole cloth or was she**  
 19 **suggesting edits, or whatever it may be, but somehow she**  
 20 **was communicating information about what should go in**  
 21 **documents or not go in documents. How did that**  
 22 **transmission occur?**

23 A. I was involved.

24 **Q. Was it email?**

25 A. Yes.

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1 **Q. You know, sometimes we have experts or**  
 2 **consultants who -- they prefer to communicate some other**  
 3 **way and, you know, we have to share a screen and we're**  
 4 **looking at the documents together and we're having a**  
 5 **conversation or we have to fax it over.**

6 **Anything -- was there any other way of**  
 7 **communicating the language besides email in this case?**

8 MR. MULLALY: Object to form.

9 You can answer.

10 A. We had -- I think we had some phone calls,  
 11 but I think that drafting of the communications  
 12 specifically would have been over email.

13 **Q (By Mr. Ruiz) So what were the two letters**  
 14 **about?**

15 **Was one of them the January 3rd denial?**

16 MR. MULLALY: Object to form.

17 A. I believe it was.

18 **Q (By Mr. Ruiz) Was there another one?**

19 A. I can't recall specifically.

20 **Q. There will be an email trail, right, to --**  
 21 **somebody in ARAG will know what Ms. Hudson sent over; is**  
 22 **that fair?**

23 A. Yes.

24 **Q. Who was the person at ARAG who was working**  
 25 **directly with Ms. Hudson?**

Page 72

1 A. Me.

2 **Q. Anyone else?**

3 A. No.

4 **Q. And it sounds to me like, as part of that**  
 5 **work, Ms. Hudson pulled information from the federal**  
 6 **court dockets to get information.**

7 **Is that true?**

8 A. Yes. I just don't recall the timing of that.  
 9 I don't know if that was pre that letter or post that  
 10 letter.

11 **Q. Pre or post, the emails will tell the story.**  
 12 **Agreed?**

13 A. Yeah. If that part were --

14 MR. MULLALY: Objection.

15 THE WITNESS: Sorry.

16 **Q (By Mr. Ruiz) Or Ms. Hudson will be able**  
 17 **to tell us?**

18 A. Right.

19 **Q. True?**

20 A. True.

21 **Q. Because ARAG has the senior paralegals and**  
 22 **other folks who can pull dockets if they want to. They**  
 23 **don't need to hire an outside firm to do that. True?**

24 MR. MULLALY: Object to form and scope.

25 You can answer.

18 (Pages 69 to 72)



Page 73

1 A. Yes.  
 2 **Q (By Mr. Ruiz) So you wouldn't need to hire**  
 3 **Ms. Hudson to have access to those documents. She was**  
 4 **getting those because she -- presumably -- you tell**  
 5 **me -- to assist her in the work on the McNae claim that**  
 6 **she was doing?**  
 7 MR. MULLALY: Object to form and scope and to  
 8 the degree it calls for speculation.  
 9 You can answer.  
 10 A. I think I said: I'm not sure.  
 11 **Q (By Mr. Ruiz) Describe the universe of**  
 12 **documents, including emails, that exist in which**  
 13 **Ms. Hudson was participating in the claim.**  
 14 MR. MULLALY: Object to form.  
 15 You can answer.  
 16 **Q (By Mr. Ruiz) We've already talked about the**  
 17 **emails where she was transmitting language. Anything**  
 18 **else?**  
 19 MR. MULLALY: Same objection.  
 20 You can answer.  
 21 A. No. I think that's all.  
 22 **Q (By Mr. Ruiz) And again, Ms. Hudson was**  
 23 **brought in before this lawsuit was filed; true?**  
 24 MR. MULLALY: Object to form and scope.  
 25 You can answer.

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1 A. I believe that's true.  
 2 **Q (By Mr. Ruiz) Who decided to reach out to**  
 3 **Ms. Hudson to help on the McNae claim?**  
 4 MR. MULLALY: Object to form. Object --  
 5 that's all.  
 6 You can answer.  
 7 A. I believe I was talking to her on a different  
 8 issue and it was one then that it was, you know, hey, I  
 9 have another thing, could I chat with you about.  
 10 **Q (By Mr. Ruiz) What was the other issue?**  
 11 A. I was trying to remember that.  
 12 MR. MULLALY: I object to scope and instruct  
 13 the witness not to divulge any attorney-client privilege  
 14 or work product information.  
 15 To the extent you can answer without doing  
 16 so, please do.  
 17 A. I can't remember anyway. I don't recall  
 18 exactly what it was.  
 19 **Q (By Mr. Ruiz) So sounds to me that you don't**  
 20 **remember the exact order of the work that Ms. Hudson**  
 21 **did, but she did the two things: contribute language or**  
 22 **draft language on letters and pull information from the**  
 23 **federal dockets.**  
 24 **Anything else?**  
 25 MR. MULLALY: Object to form.

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1 You can answer.  
 2 A. Yeah. Those both came after giving coverage  
 3 opinion and legal assessment. But yes.  
 4 **Q. (By Mr. Ruiz) So if I'm right, you don't**  
 5 **remember the exact order that that happened. Is that**  
 6 **true?**  
 7 A. That's true.  
 8 MR. MULLALY: Object to form.  
 9 (Crosstalk)  
 10 A. No. No.  
 11 Hold on. Let me...  
 12 **Q (By Mr. Ruiz) Oh, yes, this is a great**  
 13 **opportunity -- fix what I said, please.**  
 14 A. Okay, yes, because I'm just kind of realizing  
 15 in my mind what you said.  
 16 I do know that the request for assistance on  
 17 coverage was first. I do know that it was initially a,  
 18 hey, I, you know, would like your legal advice and  
 19 opinion.  
 20 And then after taking that, after considering  
 21 that, ARAG came back and asked for assistance in  
 22 communication.  
 23 **Q. So that's a two-step timeline. Where in**  
 24 **there do you remember the PACER search?**  
 25 A. After.

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1 **Q. After both of those?**  
 2 A. (Witness nods head.)  
 3 **Q. But again --**  
 4 A. Yeah, I don't know if it was PACER. I don't  
 5 know how. I don't know. All I recall is talking about  
 6 the status of the attorneys and whether or not they were  
 7 still associated with the case.  
 8 **Q. Let's move on to Michael Mullaly. And the**  
 9 **reason I ask is because, as you know, in ARAG's**  
 10 **discovery responses, Mr. Mullaly is identified together**  
 11 **with Ms. Hudson as someone who did work on the claim.**  
 12 **And so Mr. Mullaly is also from Squire Patton**  
 13 **Boggs U.S., LLP. Right?**  
 14 A. Yes.  
 15 **Q. And he -- it says here that he drafted the**  
 16 **reservation of rights letter issued on February 9th,**  
 17 **2024.**  
 18 **Is that true?**  
 19 A. Yes.  
 20 **Q. It says here that he's corresponded with**  
 21 **plaintiffs' counsel in this action. That would be me**  
 22 **and Mr. Fadduol.**  
 23 **Is that true?**  
 24 A. Yes.  
 25 **Q. And also that he's corresponded with Richard**

19 (Pages 73 to 76)

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**Gomez, who is currently counsel for each of the McNaes. True?**

A. Yes.

**Q. Had you worked with Mr. Mullaly --**

MR. RUIZ: Michael, can I ask you, is it Mullaly or Mullaly? I owe you the same respect. You tell me.

MR. MULLALY: Oh, thanks, Isaac. Mullaly. Thank you.

MR. RUIZ: Oh, I got it. I had been doing it right. Whew. That could have been embarrassing.

MR. MULLALY: No.

**Q (By Mr. Ruiz) Had you worked with Mr. Mullaly before the McNae claim?**

A. No.

**Q. And is the McNae claim the only claim you've ever worked on with Mr. Mullaly?**

A. Yes.

**Q. And I know you -- we're really threading the needle now, Ms. Cosimano, because I know you met with Mr. Mullaly twice last week in preparation for today's deposition. And so we're going to have to focus on any facts that Mr. Mullaly provided to you regarding his role as described in the discovery responses, but leave out, for now, advice that he was giving you in this**

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**litigation.**

**Can we thread that needle or try to?**

A. Yes, try to. Yes.

**Q. All right. So tell me, just focus on the facts, what facts did Mr. Mullaly give you, if any -- maybe he didn't give you any -- regarding his participation in the claim?**

MR. MULLALY: I'll just object on privilege grounds for the record, but as long as you follow Isaac's instructions, we'll be fine.

Thanks, Ann.

Thanks, Isaac.

A. So my recollection is that for the -- at the end of January/beginning of February time frame, we had met to get an opinion on the state claim from Mr. Mullaly and then, you know, advised of other legal issues surrounding that, and that after considering that opinion, we had asked for his assistance in drafting that communication.

**Q (By Mr. Ruiz) Anything else?**

A. The communication with Mr. Gomez was around negotiation of the fee that ARAG would pay. We had already contracted with Mr. Gomez for representation of Mrs. McNae in the federal case, and there was, I believe, just some communication about that. And then

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we ended up just directly resolving that with Mr. Gomez through a similar amendment to his network attorney work to what we had done for Mrs. McNae.

**Q. Did Mr. Mullaly have anything to do with that negotiation?**

MR. MULLALY: Object to form.

You can answer.

A. Very limited. I think he had proposed one -- like the terms, and then just -- I just directly contacted Mr. Gomez.

It was very short. Very limited, I guess I will say.

**Q (By Mr. Ruiz) Anything else Mr. Mullaly did on the McNae claims?**

MR. MULLALY: Object to form.

You can answer.

A. That's all I recall.

**Q (By Mr. Ruiz) We know Mr. Mullaly is involved in the litigation, because he's here and --**

A. Right.

**Q. -- we've worked with him.**

**Does he have continuing involvement in the claims handling?**

A. No.

**Q. That has stopped?**

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A. Yes.

**Q. So let's see if I can get a timeline. I think you've kind of given me one, but I'm not sure that it intended as a guideline.**

Let me back up.

**What was the first action that Mr. Mullaly took on the McNae claims? The first thing.**

A. Providing coverage advice and opinion.

**Q. And did you say that was late January/early February?**

A. Yes.

**Q. Did Mr. Mullaly deliver a coverage opinion to ARAG?**

A. Yes.

**Q. And then what was the second thing that he did?**

A. After ARAG took into account his opinion, we asked for him to draft communication.

**Q. Consistent with his coverage opinion?**

MR. MULLALY: Object on the grounds of privilege.

If you can answer without divulging attorney-client privilege or work product, you can.

A. Yeah, I don't know how consistent it ended up being.

20 (Pages 77 to 80)

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**Q (By Mr. Ruiz) What was the third thing that Mr. Mullaly did on the claim?**

A. The communication with Mr. Gomez.

**Q. Is that the last thing that Mr. Mullaly did on the claim?**

A. I believe so.

**Q. Based on the timeline, it doesn't sound like Mr. Mullaly had anything to do with the decision to terminate the attorneys on November 20th, 2023.**

**Is that true?**

A. That's true.

**Q. What documents, including emails, exist in which Mr. Mullaly was participating in the claims handling as you've described it?**

A. I believe there was email draft.

**Q. There would have been emails relating to the coverage opinion; true?**

MR. MULLALY: Object to form and scope.

You can answer if you can respond without divulging privileged information.

**Q (By Mr. Ruiz) Let's treat this as a yes or no, with all due respect. So as a yes-or-no question, will there be emails at ARAG in which Mr. Mullaly is communicating a coverage opinion, such as by attaching a letter or maybe in the body of the email?**

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**Q. And you don't remember --**

A. And I should specify: from ARAG.

**Q. Understood.**

**But you don't remember receiving a written coverage opinion, at least as you sit here right now? I just want to be --**

A. As I sit here right now, I can't say with confidence.

**Q. And if it was verbal, you don't remember writing it down anywhere; correct?**

MR. MULLALY: Object to scope.

You can answer.

A. Correct.

**Q (By Mr. Ruiz) But if I asked you right now, you would be able, to a degree, to describe what the coverage opinion was. True?**

MR. MULLALY: Object to scope.

You can answer.

A. To an extent.

**Q (By Mr. Ruiz) Well, I'm going to ask the question and I'm going to let Mr. Mullaly make his record, if he wants.**

**What was the coverage opinion that Mr. Mullaly gave you?**

MR. MULLALY: I object on the grounds of

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A. I don't recall if it was written or verbal.

**Q. And then if it was verbal -- and I understand that you don't recall -- is there any record of what the coverage opinion was?**

MR. MULLALY: Object to form and scope.

You can answer.

A. If it was verbal, no.

**Q (By Mr. Ruiz) Would you have written down some notes?**

MR. MULLALY: Object to form and scope.

If you can answer, you can.

A. Not that I recall.

**Q (By Mr. Ruiz) Did you receive the coverage opinion?**

A. Yes.

**Q. I'm not -- right now, I am not asking you to tell it to me, but if I could -- if I did ask you to describe what the coverage opinion was, would you be able to do it?**

A. To a degree, to the best of my recollection.

**Q. Did anyone else receive the coverage opinion from Mr. Mullaly? Again, just a yes-or-no question.**

A. I don't recall if there was anybody else.

If it was written, no. If it was verbal, I can't recall if there was somebody else on the call.

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attorney-client privilege and work product.

If you can respond to the question without revealing attorney-client privilege or work product material, please answer.

A. I don't think I could respond without doing that.

**Q (By Mr. Ruiz) Did ARAG think that Mr. Mullaly's coverage opinion was well-reasoned?**

MR. MULLALY: Same objections.

**Q (By Mr. Ruiz) I'm only asking what ARAG -- how ARAG received it.**

A. Yes.

**Q. Did you communicate the coverage opinion to anybody else at ARAG?**

A. Not the coverage opinion, no.

**Q. Now, what information -- just, again, bullet points, because I'm trying to stay -- I don't want -- I don't want to end up in front of a judge quite yet. So just bullet points.**

**What information did you provide to Mr. Mullaly to rely upon in crafting whatever that coverage opinion was?**

MR. MULLALY: I object on the grounds of privilege and work product. To the extent -- I'm not objecting to conveyance of factual information but to

21 (Pages 81 to 84)

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1 conveyance of the accumulation of facts as done by  
2 counsel, whether it be Ann or myself.

3 So if you can answer, Ann, without revealing  
4 attorney-client or work product material, please do. If  
5 it requires revealing those things, please don't.

6 MR. RUIZ: Yeah.

7 A. I think the one thing that I could share  
8 without doing that would be that we provided the  
9 UltimateAdvisor certificate of insurance.

10 **Q (By Mr. Ruiz) Did you provide anything else?**

11 A. No.

12 **Q. Well, you must have provided the Complaint  
13 from the Florida state court case. Right?**

14 A. I can't recall that I did.

15 **Q. Any other -- besides -- strike that.**

16 **Besides the UltimateAdvisor certificate of  
17 coverage, do you have recollection of ARAG providing  
18 Mr. Mullaly with any other facts?**

19 MR. MULLALY: Same objection.

20 You can answer.

21 **Q (By Mr. Ruiz) At the time it was requesting  
22 the coverage opinion.**

23 A. I don't.

24 **Q. And you don't remember -- and you don't think  
25 that you communicated the coverage opinion to anyone**

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1 **he was under consideration for being retained by the  
2 McNaes?**

3 MR. MULLALY: Object to form.

4 You can answer.

5 A. I know I was. And I'm trying to think if  
6 there was anyone else.

7 I believe there was one other -- Brittany  
8 Gering, I believe, also had communicated with him. And  
9 then Mike.

10 **Q (By Mr. Ruiz) Mr. Mullaly?**

11 A. Mullaly. Sorry.

12 **Q. That's okay.**

13 **What was the very last action that  
14 Mr. Mullaly took on the McNae claims? Was it the  
15 communications with Mr. Gomez?**

16 A. Yes.

17 **Q. Did Mr. Mullaly have anything to do with the  
18 final decision of what agreement ARAG entered into with  
19 Mr. Gomez?**

20 A. No.

21 **Q. Does Mr. Mullaly have any continuing role  
22 relating to the McNaes' claims, at least as far as  
23 claims handling is concerned?**

24 A. No.

25 **Q. Is there any other outside party who has been**

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1 **else within ARAG?**

2 A. Not the coverage opinion.

3 **Q. Did you convey it to anyone in the claims  
4 department?**

5 A. I wouldn't have conveyed the coverage  
6 opinion.

7 **Q. How about to Mr. Murray?**

8 A. No.

9 **Q. So no one else within ARAG?**

10 A. Not the coverage -- not the coverage opinion.

11 **Q. Who made the decision to ask Mr. Mullaly to  
12 assist in drafting the communication after receiving the  
13 coverage opinion?**

14 A. I did.

15 **Q. Did anyone else contribute to that decision?**

16 A. No.

17 **Q. Did anyone at ARAG review that communication  
18 before it went out to the McNaes?**

19 A. Yes.

20 **Q. Who?**

21 A. It was myself as well as Jeff LeMay.

22 **Q. Anyone else?**

23 A. No.

24 **Q. So who were the people inside of ARAG who  
25 were involved in dealing with Mr. Gomez at the time that**

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1 **involved in the McNae claims handling other than the  
2 ones we've talked about today?**

3 A. No.

4 I said that quickly and then I remembered  
5 there was one person copied on email, but I don't think  
6 she ended up having ultimate involvement.

7 **Q. Do you remember who?**

8 A. Jian Xu.

9 **Q. Was she at Squire Boggs also?**

10 A. Yeah. I think she ended up being involved.  
11 I think she was just somebody that maybe was considering  
12 at the beginning.

13 **Q. Is Ms. Xu -- have you ever worked with her  
14 before?**

15 A. Yes.

16 **Q. But you don't remember her having anything to  
17 do with the actual claims handling in the McNae claim?**

18 A. No.

19 **Q. What kinds of things have you worked with  
20 Ms. Xu on?**

21 A. She represented one --

22 MR. MULLALY: Object to scope.

23 I'm sorry.

24 And just caution you, Ann, not to reveal any  
25 attorney-client or work product material. You may

22 (Pages 85 to 88)



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1 answer otherwise.

2 **Q (By Mr. Ruiz) Bullet points. Give us bullet**  
3 **points without delving into substance.**

4 A. She represented an ARAG member on a very  
5 complicated cyber -- it was a Bitcoin -- a Bitcoin case.

6 **Q. Anything else?**

7 A. Yeah. There's one other case --

8 MR. MULLALY: Same objections.

9 THE WITNESS: Yeah.

10 MR. MULLALY: You can answer.

11 A. -- that's an attorney case that she's  
12 assisting us with in California.

13 **Q (By Mr. Ruiz) Anything else?**

14 MR. MULLALY: Same objections.

15 You can answer.

16 A. I think that's all.

17 **Q (By Mr. Ruiz) Okay. Before we take a lunch**  
18 **break, I want to ask you about this one concept that**  
19 **I've been thinking about.**

20 You're familiar with the insurance product  
21 that's called liability insurance; right? You know what  
22 that is?

23 MR. MULLALY: Object to form and scope.

24 You can answer.

25 A. Yes.

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1 **Q (By Mr. Ruiz) And in liability insurance**  
2 **policies, there's often two kinds of benefits.**

3 One is the benefit for if there's a judgment  
4 that's entered against you. Right? And the insurance  
5 company may pay for all or part of the judgment,  
6 depending on what the policy terms are on one hand.

7 And then other than, there's the defense  
8 benefit, which is that the insurance company may pay for  
9 defending you in the case within the constraints of what  
10 the policy is.

11 **Correct?**

12 MR. MULLALY: Object to form and scope.

13 You can answer.

14 A. Yes.

15 **Q (By Mr. Ruiz) Now, are there any documents**  
16 **at ARAG that describe the differences between a typical**  
17 **liability insurance policy on one hand and a legal**  
18 **services policy like what ARAG sells?**

19 MR. MULLALY: Object to form and scope.

20 You can answer.

21 A. I don't -- I don't know.

22 **Q (By Mr. Ruiz) Are there any documents at**  
23 **ARAG that address whether the -- well, strike that.**

24 MR. RUIZ: Why don't we go off the record.

25 THE VIDEOGRAPHER: Going off the record. The

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1 time now is approximately 11:39 a.m.

2 (Recess 11:39 a.m. to 12:10 p.m.)

3 THE VIDEOGRAPHER: Back on the record. The  
4 time now is approximately 12:10 p.m.

5 **Q (By Mr. Ruiz) Let's talk about network**  
6 **attorneys.**

7 I've uploaded the next exhibit into the chat.

8 **This is what it looks like.**

9 MR. RUIZ: Please mark this Exhibit No. 2.

10 (Exhibit No. 2 introduced.)

11 **Q (By Mr. Ruiz) This is an illustrative**  
12 **exhibit that I put together to keep us organized. It's**  
13 **a list of four topics.**

14 **Let's see.**

15 I'm going to type in a new one. And then  
16 when we're done here with this line of questions, I'll  
17 upload the newest version into the chat.

18 **Let's start with number 1. What written**  
19 **policies, procedures, or protocols exist at ARAG**  
20 **regarding determining how ARAG selects and compensates**  
21 **attorneys to represent ARAG insureds?**

22 A. Network development has a policy and  
23 protocol -- or would I call it an SOP? It probably  
24 would be an SOP for recruiting network attorneys.

25 **Q. Does SOP standard for standard of practice?**

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1 A. Standard operating procedures.

2 **Q. So there's a group within ARAG called network**  
3 **development; correct?**

4 A. Yes.

5 **Q. Is that a division? A department? Something**  
6 **else?**

7 A. Department.

8 **Q. The network development department has**  
9 **standard operating procedures that relate to determining**  
10 **how ARAG selects and compensates attorneys to represent**  
11 **ARAG insureds?**

12 A. And I'll state specifically network  
13 attorneys.

14 **Q. Can you repeat that? I'm sorry.**

15 A. Yeah. Specific to network attorneys.

16 **Q. Any other written policies, procedures, or**  
17 **protocols on that subject?**

18 A. In the broader way that you have it written  
19 here where it says ARAG insureds, I think there would  
20 also be case coordination. And so that would be when  
21 we're finding non-network attorneys to represent ARAG  
22 members.

23 **Q. Are there any written policies, procedures,**  
24 **or protocols that apply to case coordination in doing**  
25 **that?**

23 (Pages 89 to 92)

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1 A. Yes.  
 2 **Q. What are those called?**  
 3 A. Ooh. I know they are in the documents that  
 4 were produced, but I can't remember the title.  
 5 **Q. What about the SOP? Is that in the documents**  
 6 **that were produced?**  
 7 A. I'm not sure the network attorney were  
 8 produced, since these two attorneys were not -- they  
 9 didn't come to us in that manner.  
 10 **Q. This is going to sound like an obvious**  
 11 **question, but you were here on Friday when I gave my --**  
 12 **said a few words about why I asked a few questions that**  
 13 **seem obvious? I don't want to be rude. I just want to**  
 14 **make sure a few things are in the record.**  
 15 **Okay?**  
 16 A. Okay.  
 17 **Q. But before an attorney becomes a network**  
 18 **attorney, they're just an attorney and -- who is not a**  
 19 **network attorney. Fair?**  
 20 A. Yes.  
 21 **Q. And then a network attorney, after they stop**  
 22 **being network attorneys, again, they're non-network**  
 23 **attorneys. Correct?**  
 24 A. Yes.  
 25 **Q. The lifecycle of a network attorney is that**

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1 at some point they were an attorney who was a non -- not  
 2 a network attorney who became a network attorney, until  
 3 they're no longer a network attorney and they just go  
 4 back to being a regular attorney.  
 5 **Fair?**  
 6 A. Yes.  
 7 **Q. Any other written policies, procedures, or**  
 8 **protocols at ARAG regarding determining how ARAG selects**  
 9 **and compensates attorneys to represent ARAG insureds?**  
 10 A. Not that I'm aware of.  
 11 **Q. Now, had the policies, procedures, or**  
 12 **protocols at ARAG regarding determining how ARAG selects**  
 13 **and compensates attorneys to represent ARAG insureds**  
 14 **changed at all in the last three years?**  
 15 A. I don't know.  
 16 **Q. What about the last five years?**  
 17 A. I don't know.  
 18 **Q. Are there any not-written policies,**  
 19 **procedures, or protocols regarding determining how ARAG**  
 20 **selects and compensates attorneys to represent ARAG**  
 21 **insureds?**  
 22 MR. MULLALY: Object to form.  
 23 You can answer.  
 24 A. I don't know.  
 25 **Q (By Mr. Ruiz) Can you think of any?**

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1 MR. MULLALY: Same objection.  
 2 You can answer.  
 3 A. No.  
 4 **Q (By Mr. Ruiz) And I'm talking about things**  
 5 **that sometimes folks will refer to as the unwritten**  
 6 **rules of this or that.**  
 7 **Are there any unwritten rules regarding**  
 8 **determining how ARAG selects and compensates attorneys**  
 9 **to represent ARAG insureds, that you know of?**  
 10 MR. MULLALY: Object to form.  
 11 You can answer.  
 12 A. Not that I'm aware of.  
 13 **Q (By Mr. Ruiz) And what training does ARAG**  
 14 **provide its employees relating to determining how**  
 15 **ARAG -- strike that.**  
 16 **What training does ARAG provide its employees**  
 17 **regarding selecting and compensating attorneys to**  
 18 **represent ARAG insureds?**  
 19 A. For the teams that are involved in that, they  
 20 have ongoing training on like where -- how do we  
 21 identify where gaps are in our network, how -- what are  
 22 recruiting standards, what campaigns do they have going  
 23 on, how do they have conversations with attorneys to  
 24 help them understand the value of joining the network.  
 25 And I'd say those are -- those are

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1 continuous.  
 2 **Q. Who's in charge of that training?**  
 3 A. Jackie Bruce.  
 4 **Q. Do you know if there are written training**  
 5 **materials?**  
 6 MR. MULLALY: Object to scope.  
 7 You can answer.  
 8 A. I'm going to say I don't know. I haven't --  
 9 yes, I don't know.  
 10 **Q (By Mr. Ruiz) Let's look at number 2. What**  
 11 **written policies, procedures, or protocols exist at ARAG**  
 12 **regarding determining when and how ARAG terminates**  
 13 **network attorneys?**  
 14 MR. MULLALY: Objection to form.  
 15 You can answer.  
 16 A. There are some -- there is a procedure for  
 17 SIU, it's called here. If there's attorneys, they want  
 18 them to explore -- it can be education or termination.  
 19 **Q (By Mr. Ruiz) Anything else?**  
 20 A. I'd say that's different from network  
 21 attorneys that are on the network that accept our normal  
 22 fee schedule versus the attorneys who accept one  
 23 specific case. That is different, and they don't  
 24 generally undergo that same process because they're not  
 25 a member of the network that is accepting regular

24 (Pages 93 to 96)

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1 referrals where a member could approach them directly.

2 **Q. So what is the difference between how ARAG**  
3 **handles termination or potential termination of one**  
4 **class of attorney versus the other?**

5 MR. MULLALY: Object. Scope.  
6 You can answer.

7 A. So it's much like the nature of the contracts  
8 themselves and -- and the methods of recruiting, the --  
9 when we're recruiting an attorney that's going to handle  
10 multiple cases, then they -- they're even trained  
11 differently, because they have to learn our claims  
12 system. And so they go through more of a process, where  
13 those that you're hiring on a case-by-case basis, it's  
14 more individualized. It doesn't go in front of a  
15 committee.

16 **Q (By Mr. Ruiz) SIU stands for special**  
17 **investigations unit?**

18 A. Yes.

19 **Q. ARAG has one of those?**

20 A. Yes.

21 MR. MULLALY: Object to scope.

22 **Q (By Mr. Ruiz) And this is the first time**  
23 **I've ever dealt with ARAG, but for other insurance**  
24 **companies' special investigations units, one of the**  
25 **things that they investigate is fraud or potential**

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1 fraud.

2 **Do you agree?**

3 MR. MULLALY: Same objection.

4 You can answer.

5 A. Yes.

6 **Q (By Mr. Ruiz) Is that also the case at ARAG?**

7 MR. MULLALY: Same objection.

8 You can answer.

9 A. Yes.

10 **Q (By Mr. Ruiz) Was an SIU investigation ever**  
11 **commenced relating to the McNaes or their attorneys?**

12 MR. MULLALY: Objection. Scope.

13 You can answer.

14 A. No.

15 **Q (By Mr. Ruiz) What documents exist at ARAG**  
16 **that describe its SIU process?**

17 MR. MULLALY: Objection. Scope.

18 You can answer if you have knowledge.

19 A. We have a process document that describes the  
20 committee members and meetings and essentially the  
21 process.

22 **Q (By Mr. Ruiz) Are you a member of the**  
23 **committee, the SIU committee?**

24 MR. MULLALY: Objection. Scope.

25 You can answer.

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1 A. No.

2 **Q (By Mr. Ruiz) Who is?**

3 MR. MULLALY: Same objection.

4 A. I know it's a cross-represent -- like a  
5 cross-functional team with representatives from customer  
6 care, provider relations, claims, audit.

7 **Q (By Mr. Ruiz) On November 19th, 2023, were**  
8 **Ms. Casey and Ms. Fotiu-Wojtowicz network attorneys?**

9 MR. MULLALY: Object to scope and form.

10 You can answer.

11 A. I'd say under the certificate of insurance,  
12 yes.

13 **Q (By Mr. Ruiz) Are there any written**  
14 **policies, procedures, or protocols at ARAG regarding**  
15 **termination that applied to Ms. -- well, that applied**  
16 **to attorneys like what Ms. Casey were and**  
17 **Ms. Fotiu-Wojtowicz were on November 19th, 2023?**

18 MR. MULLALY: Same objections.

19 You can answer.

20 A. I don't believe so.

21 **Q (By Mr. Ruiz) Are there now any?**

22 MR. MULLALY: Same objections.

23 You can answer.

24 A. I don't believe so.

25 **Q (By Mr. Ruiz) Are any under development?**

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1 MR. MULLALY: Same objections.

2 You can answer.

3 A. Not that I'm aware of.

4 **Q (By Mr. Ruiz) Did ARAG attempt to follow**  
5 **some other procedure --**

6 MR. MULLALY: Object --

7 **Q (By Mr. Ruiz) -- that's written down**  
8 **somewhere for the termination of Ms. Casey and**  
9 **Ms. Fotiu-Wojtowicz?**

10 MR. MULLALY: Object to form and scope.

11 You can answer.

12 A. I don't know.

13 **Q (By Mr. Ruiz) All right. So are there any**  
14 **other documents, besides what you've described, at ARAG**  
15 **relating to the determination of when and how ARAG**  
16 **terminates network attorneys?**

17 MR. MULLALY: Same objections.

18 A. Not that I'm aware of.

19 **Q (By Mr. Ruiz) Are there any unwritten**  
20 **rules --**

21 **(Crosstalk)**

22 MR. MULLALY: Same objection.

23 Sorry, Isaac.

24 MR. RUIZ: It's okay.

25 **Q (By Mr. Ruiz) Are there any unwritten rules**

25 (Pages 97 to 100)

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1 at ARAG for determining when and how ARAG terminates  
2 network attorneys?

3 MR. MULLALY: Same objections.

4 A. I think "rule" is a hard word.

5 I would say use of the word "rules" is giving  
6 me pause.

7 **Q (By Mr. Ruiz) Why?**

8 A. Because it sounds like --

9 MR. MULLALY: Object to form.

10 Go ahead, Ann.

11 A. Because it sounds like something you apply  
12 the same every single -- like unilaterally.

13 **Q (By Mr. Ruiz) You mean consistently?**

14 A. Yeah.

15 **Q. Well, that's how I mean it.**

16 **So are there -- I mean -- or let me ask it --**  
17 **so let me ask it with that understanding. Are there any**  
18 **unwritten rules regarding determining when and how ARAG**  
19 **terminates network attorneys?**

20 MR. MULLALY: Object to scope.

21 You can answer.

22 A. I would say there are definite things that  
23 are looked at in making that determination. There are  
24 guides. They would be -- they might differ from  
25 circumstance to circumstance, but there are definite

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1 MR. MULLALY: Same objections.

2 You can answer.

3 A. I don't know.

4 **Q (By Mr. Ruiz) Now, are there any -- let's**  
5 **talk about a different kind of rule, a rule that you**  
6 **don't apply consistently, maybe a rule that you'll just**  
7 **apply sometimes yes, sometimes no.**

8 **Are there those kinds of rules for**  
9 **determining when and how ARAG terminates network**  
10 **attorneys that are not applied consistently across the**  
11 **board?**

12 MR. MULLALY: Same objections.

13 A. It's not that the rule wouldn't be applied  
14 consist -- it's that the circumstances would be  
15 different. So the circumstances would make it so that  
16 sometimes it's not relevant.

17 **Q (By Mr. Ruiz) And we're talking about**  
18 **unwritten things; yes?**

19 A. I think both.

20 **Q. Is there a list at ARAG that lays out factors**  
21 **to consider when deciding whether to terminate a network**  
22 **attorney?**

23 **These are factors -- for example, on one side**  
24 **factors that weigh in favor of termination, to be**  
25 **weighed against factors that weigh against termination,**

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1 things that will be considered.

2 **Q (By Mr. Ruiz) And these are unwritten?**

3 MR. MULLALY: Object to scope.

4 You can answer.

5 A. I'm -- I'm not sure.

6 **Q (By Mr. Ruiz) My question was just about**  
7 **unwritten. Are there any unwritten rules for when and**  
8 **how ARAG terminates network attorneys?**

9 MR. MULLALY: Objection to scope.

10 You can answer.

11 A. I'm not sure if they're written somewhere.

12 **Q (By Mr. Ruiz) So if there are unwritten**  
13 **rules, who at ARAG knows them?**

14 MR. MULLALY: Objection to form and scope.

15 You can answer.

16 A. It would be those people that are entering  
17 into the agreements with the attorneys, in that  
18 function.

19 **Q (By Mr. Ruiz) Are the unwritten rules ever**  
20 **communicated to the attorneys?**

21 MR. MULLALY: Objection to form and scope.

22 You can answer.

23 A. I don't know.

24 **Q (By Mr. Ruiz) Are the unwritten rules ever**  
25 **communicated to the insureds?**

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1 **is there anything like that at ARAG?**

2 A. I believe there's guide -- like a -- in the  
3 SIU process, I think there are things.

4 **Q. Things that you weigh to make a determination**  
5 **against each other?**

6 MR. MULLALY: Same objections.

7 A. Yes.

8 **Q (By Mr. Ruiz) Now, besides the McNaes, have**  
9 **there ever been any ARAG insureds whose attorneys,**  
10 **network attorneys, were fired or terminated in the**  
11 **middle of a legal case?**

12 MR. MULLALY: Same objections.

13 You can answer.

14 A. I don't know.

15 **Q (By Mr. Ruiz) Who would know at ARAG?**

16 MR. MULLALY: Same objection.

17 A. Meagen Adams would likely know.

18 **Q (By Mr. Ruiz) All right. I asked her and**  
19 **she didn't know either. She couldn't remember.**

20 **Are there any documents at ARAG that**  
21 **specifically address termination of a network attorney**  
22 **during an active representation of an ARAG insured?**

23 MR. MULLALY: Objection to scope.

24 You can answer.

25 A. I don't know.

26 (Pages 101 to 104)



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1 **Q (By Mr. Ruiz) Who would know?**  
 2 MR. MULLALY: Same objection.  
 3 A. Meagen Adams.  
 4 **Q (By Mr. Ruiz) Was it you who made the**  
 5 **determination to terminate the attorneys?**  
 6 MR. MULLALY: Same objection.  
 7 A. No.  
 8 **Q (By Mr. Ruiz) Who made the determination?**  
 9 MR. MULLALY: Same objection.  
 10 A. I'd say it was more of a collaborative, like,  
 11 discussion and determination.  
 12 **Q (By Mr. Ruiz) Okay. Consensus?**  
 13 A. Yes.  
 14 **Q. All right. Well, we know Ms. Adams wasn't**  
 15 **involved. At least that's what she said.**  
 16 **Correct?**  
 17 MR. MULLALY: Object to form.  
 18 You can answer.  
 19 A. Yes.  
 20 **Q (By Mr. Ruiz) So please give the names of**  
 21 **every person in the consensus group that decided to do**  
 22 **the terminations,**  
 23 MR. MULLALY: Object to form.  
 24 You can answer.  
 25 A. Jeff LeMay was involved. Jen Beck.

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1 And that's probably for the termination  
 2 determination.  
 3 **Q (By Mr. Ruiz) And you?**  
 4 A. And me. I was involved in the discussion.  
 5 **Q. So those are the three, but were you part of**  
 6 **the consensus group?**  
 7 MR. MULLALY: Object. Scope.  
 8 You can answer.  
 9 A. I was -- I was in the discussion.  
 10 **Q (By Mr. Ruiz) Right. But who ultimately**  
 11 **made the decision?**  
 12 MR. MULLALY: Same objection.  
 13 A. I can't say it was any one person.  
 14 **Q (By Mr. Ruiz) I don't want to be**  
 15 **disrespectful and I don't mean it that way, but was**  
 16 **it -- I mean, was there a vote or was it more of a vibe?**  
 17 MR. MULLALY: Object to form and scope.  
 18 You can answer.  
 19 A. It was really a discussion and then agreement  
 20 on how to move forward.  
 21 **Q (By Mr. Ruiz) There was -- the three of you,**  
 22 **all three of you agreed that the terminations would**  
 23 **happen?**  
 24 MR. MULLALY: Same objections.  
 25 A. Yes.

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1 **Q (By Mr. Ruiz) Is that decision by the three**  
 2 **of you recorded anywhere?**  
 3 MR. MULLALY: Same objections.  
 4 A. Not that I'm aware of. I don't know.  
 5 **Q (By Mr. Ruiz) You know, like whenever I meet**  
 6 **with a client or anybody, there's usually some follow-up**  
 7 **email that says, you know, this will reflect that we met**  
 8 **today and discussed 1, 2, and 3.**  
 9 **There's nothing like that with respect to the**  
 10 **decision to terminate Ms. Casey and Ms. Fotiu-Wojtowicz?**  
 11 A. I don't know.  
 12 MR. MULLALY: Same objection.  
 13 **Q (By Mr. Ruiz) You don't remember?**  
 14 A. Yeah, I don't know.  
 15 **Q. You agree that the decision to terminate the**  
 16 **two attorneys was an important decision to the McNaes?**  
 17 MR. MULLALY: Objection to form. Scope.  
 18 Object to the degree it calls for speculation.  
 19 You can answer.  
 20 A. I -- yes.  
 21 **Q (By Mr. Ruiz) It was also important to ARAG;**  
 22 **correct?**  
 23 MR. MULLALY: Same objections.  
 24 A. Yes.  
 25 **Q (By Mr. Ruiz) And it sounds like there isn't**

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1 **a single document at ARAG that records when the decision**  
 2 **was made and who made it to terminate the two attorneys.**  
 3 **Is that true?**  
 4 MR. MULLALY: Objection to scope.  
 5 A. I think that output of the letter is  
 6 descriptive of the decision.  
 7 **Q (By Mr. Ruiz) Does -- you mean the letter --**  
 8 **the identical letters that went out to the two**  
 9 **attorneys?**  
 10 MR. MULLALY: Same objection.  
 11 A. Yes.  
 12 **Q (By Mr. Ruiz) And -- well, do those -- are**  
 13 **those letters honest about the reasons that they were**  
 14 **being terminated?**  
 15 MR. MULLALY: Objection to form and scope.  
 16 A. I don't think they were dishonest.  
 17 **Q (By Mr. Ruiz) My question's a little bit**  
 18 **different.**  
 19 **Were those letters -- if you can't answer the**  
 20 **question, just let me know and then I'll rephrase. But**  
 21 **were those letters that went out to Ms. Casey and**  
 22 **Ms. Fotiu-Wojtowicz on November 20th, 2023, were they**  
 23 **honest about the reason that ARAG was terminating them?**  
 24 MR. MULLALY: Objection to form and scope.  
 25 A. I don't know that I can answer that.

27 (Pages 105 to 108)

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1 **Q (By Mr. Ruiz)** Aside from those letters, is  
2 there any other record of the decision within ARAG to  
3 terminate the attorneys?

4 MR. MULLALY: Objection to scope.

5 A. I don't know.

6 **Q (By Mr. Ruiz)** Okay. So what I really wanted  
7 to ask you was: When this group was making its  
8 consensus decision, could anyone point to a precedent  
9 where attorneys were terminated in the middle of  
10 litigation involving ARAG insureds?

11 MR. MULLALY: Objection to form and scope.

12 A. I'm not sure.

13 **Q (By Mr. Ruiz)** Well, did Mr. LeMay and  
14 Ms. Beck have meetings about this without you?

15 MR. MULLALY: Objection to scope.

16 A. I don't know.

17 **Q (By Mr. Ruiz)** You never asked them?

18 A. No.

19 **Q. Okay. Well, let's get back to my**  
20 **illustrative exhibit.**

21 **Let's look at number 3. What written**  
22 **policies, procedures, or protocol exist at ARAG**  
23 **regarding handling complaints by network attorneys**  
24 **regarding compensation for network attorney work?**

25 A. Protocols. So what procedures?

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1 written policies, procedures, or protocols in existence  
2 at ARAG regarding determining what ARAG compensates  
3 network attorneys?

4 A. There is a -- ask the question again.

5 **Q. Sure.**

6 **Are there any written policies, procedures,**  
7 **or protocols that exist at ARAG regarding determining**  
8 **what ARAG compensates network attorneys?**

9 A. So similar answer. I know what the process  
10 is, but I don't know if it's written.

11 **Q. Describe the process.**

12 A. We have --

13 MR. MULLALY: Object to form.

14 You can answer.

15 A. We have a fee schedule committee that meets  
16 regularly and we review information that attorneys  
17 submit, like claims submission information that includes  
18 hours spent for average claims, and then also look at  
19 other information, like how much are we paying on  
20 exceeds basis for fee schedule cases, and then make  
21 recommendations for how to adjust the fee schedule  
22 moving forward.

23 **Q (By Mr. Ruiz)** What written policies,  
24 **procedures, or protocols exist at ARAG regarding**  
25 **determining what fees to pay on behalf of insureds for**

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1 **Q. Think of standards, guidelines, things like**  
2 **that. You know, things that are written down that help**  
3 **people do their work.**

4 **What policies, procedures, or protocols that**  
5 **are written exist at ARAG regarding how to handle**  
6 **complaints by network attorneys regarding compensation**  
7 **for their work?**

8 A. They would be routed to our attorney  
9 relations team. And that team is trained to help the  
10 attorneys -- attorneys aren't required to accept any  
11 specific area of law. So generally if they don't like  
12 what they're going to get paid for that area of law,  
13 they can drop that area of law and maintain those that  
14 the price structure does work for them.

15 **Q. Okay. But are there any written policies,**  
16 **procedures, or protocols that tell ARAG employees how to**  
17 **handle complaints by network attorneys regarding**  
18 **compensation for their work, if there are complaints?**

19 A. I just know what the process is, but I don't  
20 know if it's written.

21 **Q. Are there any unwritten rules, unwritten**  
22 **policies, protocols, or procedures, on that topic?**

23 A. Just, I know what the process is but I don't  
24 know if it's written.

25 **Q. Let's move on to number 4. Are there any**

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1 **legal representation?**

2 A. I did see in the materials that we submitted,  
3 there was, in the case coordination, some information  
4 there about establishing contracts.

5 **Q. Anything else?**

6 A. Not that I'm aware of.

7 **Q. Are there any unwritten policies, procedures,**  
8 **or protocols regarding determining what fees to pay on**  
9 **behalf of insureds for legal representation?**

10 A. Not that I'm aware of.

11 **Q. Before the -- I keep calling it the consensus**  
12 **group. That's the three of you -- Mr. LeMay, Ms. Beck,**  
13 **and you -- who came to the consensus to terminate the**  
14 **two attorneys. So if I say "consensus group," that's**  
15 **what I mean. Okay?**

16 A. Okay.

17 **Q. Before the consensus group decided to**  
18 **terminate the two attorneys -- well, strike that.**  
19 **What date did that happen? When was a**  
20 **decision made by the consensus group?**

21 MR. MULLALY: Object to scope.

22 You can answer.

23 A. Before November 20th.

24 **Q (By Mr. Ruiz)** You don't know exactly when?

25 A. Not -- not exact date.

28 (Pages 109 to 112)

Page 113

1 **Q. Are you aware of any document at ARAG that**  
 2 **records what day that happened?**  
 3 MR. MULLALY: Same objection.  
 4 A. No.  
 5 **Q (By Mr. Ruiz) Did it happen in person? Did**  
 6 **it happen on Teams? Did it happen some other way? Did**  
 7 **it happen over multiple sessions?**  
 8 MR. MULLALY: Same objection.  
 9 A. My recollection is it was in person.  
 10 **Q (By Mr. Ruiz) Did you guys have lunch**  
 11 **together? Did you meet in an office? How did that**  
 12 **happen?**  
 13 MR. MULLALY: Same objection.  
 14 **Q (By Mr. Ruiz) Paint a picture for me,**  
 15 **please.**  
 16 MR. MULLALY: Same objection.  
 17 A. It was not lunch together. It would have --  
 18 but I don't recall that it was a formal meeting.  
 19 We're a small office, and so most likely just  
 20 a gather. And I'm not even sure it was all in one room  
 21 at the same time.  
 22 **Q (By Mr. Ruiz) Was it an ongoing discussion**  
 23 **over multiple sessions, maybe?**  
 24 A. Yeah, that's -- I'm thinking that's more  
 25 likely.

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1 **Q. Did anyone take notes?**  
 2 MR. MULLALY: Same objection.  
 3 A. I -- I don't know.  
 4 **Q (By Mr. Ruiz) Did the -- did -- were you**  
 5 **guys at a computer looking at documents together?**  
 6 MR. MULLALY: Same objection.  
 7 A. I don't believe so.  
 8 **Q (By Mr. Ruiz) Did you print out all of the**  
 9 **invoices and case statuses and lay them out on a table**  
 10 **so that you all could go through them together?**  
 11 MR. MULLALY: Object to form and scope.  
 12 You can answer.  
 13 **Q (By Mr. Ruiz) You know what I'm talking**  
 14 **about? Those case --**  
 15 A. Yeah.  
 16 (Crosstalk)  
 17 **Q. -- updates the attorneys submitted?**  
 18 **And my question is: Did you print out those**  
 19 **invoices and those case updates and lay them out on the**  
 20 **table so that the three of you could go through them**  
 21 **together?**  
 22 MR. MULLALY: Same objection.  
 23 A. No.  
 24 **Q (By Mr. Ruiz) Of the three of you, which**  
 25 **ones of you -- who -- who read those invoices and case**

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1 **updates?**  
 2 A. I think all of us did.  
 3 **Q. Well, I don't want you to guess. Were you**  
 4 **there when they read theirs?**  
 5 A. No.  
 6 **Q. Okay. So you read them, though?**  
 7 A. Yes.  
 8 **Q. And you don't -- you weren't present while**  
 9 **they were reading them; correct?**  
 10 A. No.  
 11 **Q. Did anyone create any document -- it could be**  
 12 **a spreadsheet, a memo, maybe something written on the**  
 13 **whiteboard -- that outlined concerns from the invoices**  
 14 **and case status updates?**  
 15 MR. MULLALY: Object to scope.  
 16 You can answer.  
 17 A. I don't know.  
 18 **Q (By Mr. Ruiz) Are you aware of anything like**  
 19 **that?**  
 20 A. No.  
 21 (Mr. Abele enters.)  
 22 **Q. You know, at the end of a case, the -- and if**  
 23 **the prevailing party is entitled to obtain attorney**  
 24 **fees, the parties will often engage in litigation in**  
 25 **which experts sort of critique invoices and try to call**

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1 **out specific duplicative items, work that shouldn't have**  
 2 **been performed.**  
 3 **Have you ever seen anything like that in your**  
 4 **career?**  
 5 A. I have not.  
 6 **Q. Now, was there any written analysis of the**  
 7 **invoices or the case updates that sought to identify**  
 8 **duplicative work or work that should not have been**  
 9 **performed?**  
 10 MR. MULLALY: Object to scope.  
 11 You can answer.  
 12 A. I don't know.  
 13 **Q (By Mr. Ruiz) You don't know of any?**  
 14 A. No.  
 15 **Q. And did you take evidence class in law**  
 16 **school?**  
 17 MR. MULLALY: Object to scope.  
 18 A. Yes.  
 19 **Q (By Mr. Ruiz) You know what the attorney-**  
 20 **client privilege is; right?**  
 21 A. Yes.  
 22 **Q. And the attorney-client privilege -- well,**  
 23 **we've been talking about it today. It means that the**  
 24 **communications that you have with your attorney are**  
 25 **privileged to the extent you're trying to get legal**

29 (Pages 113 to 116)

Page 117

1 advice.

2 Is that your understanding as well?

3 A. Yes.

4 Q. But I'm not your attorney, so anything you  
5 say to me, unless it's covered by a protective order, I  
6 can go blab it wherever I want; right?

7 A. Yes.

8 Q. Did Ms. Casey have an attorney-client  
9 relationship with Ronda McNae?

10 A. I don't know.

11 Q. Did you look into that before you made the  
12 decision to terminate Ms. Casey and Ms. Fotiu-Wojtowicz?  
13 That specific question of whether Ms. Casey had an  
14 attorney-client relationship with Ronda McNae.

15 MR. MULLALY: Object to scope.

16 A. No.

17 MR. MULLALY: You can answer.

18 Q (By Mr. Ruiz) You didn't look into that?

19 A. (Witness shakes head.)

20 MR. MULLALY: Same objection.

21 A. No.

22 Q (By Mr. Ruiz) Did anyone at ARAG look into  
23 that, to your knowledge?

24 MR. MULLALY: Same objection.

25 A. Not that I'm aware.

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1 question.

2 MR. MULLALY: Same objection.

3 A. And an attorney that had a contract with us  
4 had indicated that openness in a communication to us.

5 Q (By Mr. Ruiz) Whose openness? Will McNae's  
6 or Ronda McNae's?

7 MR. MULLALY: Same objections.

8 A. The -- the manner in which it was written  
9 made it appear that there was -- that that was a  
10 possibility.

11 Q (By Mr. Ruiz) Ronda McNae or Will McNae?

12 MR. MULLALY: Same objections.

13 A. The way it was -- the way it was worded was  
14 that there had to be this public statement of clearing  
15 his name, I think was the way it was worded.

16 Q (By Mr. Ruiz) All right. That came from  
17 Will McNae's attorney?

18 A. Yes.

19 Q. Did Ms. Fotiu-Wojtowicz, who actually had an  
20 attorney-client relationship with Ronda McNae and who  
21 actually represented her interests, ever give any  
22 written communications and say that Ronda McNae was  
23 receptive to that idea?

24 MR. MULLALY: Objection to form and scope.

25 A. No.

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1 Q (By Mr. Ruiz) You know, I often tell my  
2 clients, you know, with very narrow exceptions, if they  
3 tell me something, I take it to the grave. That's what  
4 confidentiality means.

5 But again, if you were to tell me something,  
6 you're not my client, that rule doesn't apply.

7 You understand that; right?

8 MR. MULLALY: Objection to form and scope.

9 You can answer.

10 A. Yes.

11 Q (By Mr. Ruiz) And so Ms. Casey, if she  
12 doesn't represent Ronda McNae, did ARAG expect Ms. Casey  
13 to call Ronda McNae and ask her, outside of a privileged  
14 communication, would you be -- ever be willing to give a  
15 public statement of the type that Mr. Fitzgerald wants?

16 Did ARAG have that expectation that Ms. Casey  
17 would call Ronda McNae and have that communication?

18 MR. MULLALY: Object to form and scope.

19 A. I think we had an expectation of accuracy in  
20 the communication to us.

21 Q (By Mr. Ruiz) Right. But if Will McNae, who  
22 was Ms. Casey's client, was receptive to the possibility  
23 of Ronda McNae making a statement, how does that dictate  
24 what Ronda McNae has to do?

25 And I'm asking for ARAG's testimony on that

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1 Q (By Mr. Ruiz) Did ARAG ever (inaudible) to  
2 ask her if Ronda McNae would be open to that idea?

3 THE COURT REPORTER: Sorry, can you -- that  
4 was pretty fast. Could you say that again? Did Ronda  
5 McNae...?

6 MR. RUIZ: I'll withdraw the question.

7 Q (By Mr. Ruiz) Did ARAG ever contact  
8 Ms. Fotiu-Wojtowicz to ask if Ronda McNae would be open  
9 to that idea, the idea of giving a public statement that  
10 cleared Mr. Fitzgerald's name?

11 MR. MULLALY: Same objection.

12 A. No.

13 Q (By Mr. Ruiz) Did it ever consider doing  
14 that?

15 MR. MULLALY: Same objections.

16 A. No.

17 Q (By Mr. Ruiz) Why not?

18 MR. MULLALY: Same objection.

19 A. Because both of the attorneys indicated that  
20 they were open to the mediation. They felt mediation  
21 could potentially net a positive outcome, so they both  
22 indicated that they wanted to move forward.

23 Q (By Mr. Ruiz) Just because somebody wants to  
24 go to mediation and attends in good faith, there is no  
25 guarantee of a resolution. Do you agree?

30 (Pages 117 to 120)



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1 A. Agree.  
 2 **Q. And ARAG didn't expect Ronda McNae to settle**  
 3 **at whatever price; correct?**  
 4 MR. MULLALY: Same objections.  
 5 A. Correct.  
 6 **Q (By Mr. Ruiz) Did ARAG only agree to pay for**  
 7 **the mediation based on its understanding that Ronda**  
 8 **McNae would be willing to go on the record and say that**  
 9 **she was not sexually assaulted?**  
 10 MR. MULLALY: Object to form, scope.  
 11 You can answer.  
 12 A. I think had we known that that was an  
 13 absolute bar, that there was no possibility that -- and  
 14 that mediation was futile, we would not have agreed.  
 15 **Q (By Mr. Ruiz) But couldn't Mr. Fitzgerald**  
 16 **have dropped that -- his demand?**  
 17 **You're putting all this on the McNaes. Would**  
 18 **Mr. Fitzgerald have dropped his demand in a mediation?**  
 19 MR. MULLALY: Same objections.  
 20 A. Sure.  
 21 **Q (By Mr. Ruiz) Right.**  
 22 **And it may surprise you to know that it's**  
 23 **very rare that my opening demand at mediation is the**  
 24 **exact amount of a settlement at the end of the**  
 25 **mediation.**

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1 **Does that surprise you?**  
 2 MR. MULLALY: Same objections.  
 3 A. No.  
 4 **Q (By Mr. Ruiz) And you are aware that people**  
 5 **make demands at the beginning of or before mediation**  
 6 **that ultimately do never see the light of day after a**  
 7 **settlement happens. Do you agree with that?**  
 8 MR. MULLALY: Same objections.  
 9 A. I'm sure that happens.  
 10 **Q (By Mr. Ruiz) Okay. And is there any**  
 11 **written communication that said that Ronda McNae would**  
 12 **absolutely, yes, be willing to go on the record and say**  
 13 **that all this time that she was saying that she had been**  
 14 **sexually assaulted, that she was lying?**  
 15 MR. MULLALY: Same objections.  
 16 A. You might have -- I'm sorry, you might have  
 17 to reword that.  
 18 **Q (By Mr. Ruiz) Is there any written**  
 19 **communication that told ARAG that Ronda McNae absolutely**  
 20 **would be willing to give a statement clearing**  
 21 **Mr. Fitzgerald?**  
 22 MR. MULLALY: Object to form and scope.  
 23 A. No, there is no written communication that  
 24 says that.  
 25 **Q (By Mr. Ruiz) But ARAG expected her -- in**

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1 **exchange for ARAG paying for the mediation, ARAG**  
 2 **expected Ronda McNae to go in there and agree to give a**  
 3 **statement that said that Mr. Fitzgerald didn't sexually**  
 4 **assault her?**  
 5 MR. MULLALY: Same objections.  
 6 A. No.  
 7 **Q (By Mr. Ruiz) I'm confused. I was confused**  
 8 **on Friday when I was hearing similar testimony. I don't**  
 9 **know that there's anything I can do to clarify.**  
 10 **Is there anything -- well, let me ask it a**  
 11 **different way.**  
 12 **Were there any telephone calls or Teams**  
 13 **meetings or video conferences that ARAG was a part of**  
 14 **with the attorneys discussing whether or not mediation**  
 15 **was a good idea?**  
 16 MR. MULLALY: Object to scope.  
 17 You can answer.  
 18 A. No.  
 19 **Q (By Mr. Ruiz) And, in fact, all the**  
 20 **communication between ARAG and the attorneys regarding**  
 21 **potential mediation, they were in writing; correct?**  
 22 MR. MULLALY: Same objection.  
 23 A. Yes.  
 24 **Q (By Mr. Ruiz) And we have copies of all that**  
 25 **correspondence. Agreed?**

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1 MR. MULLALY: Same objection.  
 2 A. Yes.  
 3 **Q (By Mr. Ruiz) And that correspondence**  
 4 **happened after the chief financial officer at ARAG**  
 5 **started asking questions about how much was being paid**  
 6 **on this claim.**  
 7 **Do you agree to that sequence of events?**  
 8 MR. MULLALY: Object to form and scope.  
 9 A. I don't know.  
 10 **Q (By Mr. Ruiz) Did the three of you, the**  
 11 **consensus group, try to do a quick-and-dirty SIU**  
 12 **investigation before you made the decision?**  
 13 MR. MULLALY: Object to form and scope.  
 14 A. In that we talked about the issues.  
 15 **Q (By Mr. Ruiz) Other than talking about the**  
 16 **issues, did the three of you do anything to investigate?**  
 17 MR. MULLALY: Same objections.  
 18 A. I mean, I guess that's what I would call  
 19 investigation.  
 20 **Q (By Mr. Ruiz) Right.**  
 21 **But, I mean, if I wanted to investigate who's**  
 22 **in the library over there, which is right next to me, I**  
 23 **couldn't just talk about it and find the answer. I'd**  
 24 **actually have to walk over there and look in there.**  
 25 **Right?**

31 (Pages 121 to 124)

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1 MR. MULLALY: Same objections.  
 2 A. Yes.  
 3 **Q (By Mr. Ruiz) When there are facts to be**  
 4 **found, you have to go look for them or ask for the**  
 5 **facts. Do you agree?**  
 6 MR. MULLALY: Object to form.  
 7 A. Yes.  
 8 **Q (By Mr. Ruiz) Did anyone in the consensus**  
 9 **group suggest that maybe you should speak to one of the**  
 10 **attorneys before terminating them?**  
 11 MR. MULLALY: Object to form and scope.  
 12 A. No.  
 13 **Q (By Mr. Ruiz) Did anyone in the consensus**  
 14 **group suggest that maybe you should talk to one or both**  
 15 **of the McNaes before terminating the attorneys?**  
 16 MR. MULLALY: Same objections.  
 17 A. No.  
 18 **Q (By Mr. Ruiz) Did any of the three of you in**  
 19 **the consensus group suggest the possibility of getting**  
 20 **attorney advice on the question of duplication?**  
 21 MR. MULLALY: Same objections.  
 22 A. No.  
 23 **Q (By Mr. Ruiz) Does ARAG think that Ms. McNae**  
 24 **is lying about the sexual assault?**  
 25 MR. MULLALY: Same objection.

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1 A. No.  
 2 **Q (By Mr. Ruiz) No, absolutely not. Right?**  
 3 A. Right.  
 4 **Q. And so ARAG doesn't expect Ronda to ever say**  
 5 **that she was not sexually assaulted; correct?**  
 6 A. Correct.  
 7 **Q. Has that always been true, that ARAG did not**  
 8 **expect Ronda McNae to go on the record and say she was**  
 9 **not sexually assaulted by Michael Fitzgerald or has that**  
 10 **changed at some point?**  
 11 A. I think your word "expect" is weird. We  
 12 didn't have an expectation, but the attorney  
 13 communicated it in a way that made it seem like that was  
 14 something that would -- would -- they would be open to  
 15 in order to settle, and had proactively asked the other  
 16 party to provide the statement.  
 17 **Q. I guess my question is: So what?**  
 18 **I mean, isn't that her job? Isn't that the**  
 19 **attorney's job to get a full understanding of what the**  
 20 **other side is proposing in a settlement?**  
 21 MR. MULLALY: Object to form and scope.  
 22 A. Yes.  
 23 **Q (By Mr. Ruiz) Right.**  
 24 **And you criticized her for not taking steps**  
 25 **to -- reasonable steps to potentially resolve the claim,**

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1 **but her asking for the statement to understand what he**  
 2 **was asking for, isn't that a step potentially to explore**  
 3 **the possible resolution of a claim?**  
 4 MR. MULLALY: Same objections.  
 5 A. Yes.  
 6 **Q (By Mr. Ruiz) Right. What if the statement**  
 7 **was something -- that he wanted was something that**  
 8 **didn't require her to say she wasn't sexually assaulted.**  
 9 **Right?**  
 10 MR. MULLALY: Same objections.  
 11 **Q (By Mr. Ruiz) Right?**  
 12 A. Right.  
 13 **Q. And so there's a perfectly good reason for**  
 14 **Ms. Casey to ask what the statement said. Don't you**  
 15 **agree?**  
 16 MR. MULLALY: Same objections.  
 17 A. Yes.  
 18 **Q (By Mr. Ruiz) And her asking for the**  
 19 **statement doesn't mean that Ronda McNae is going to**  
 20 **accept it. Do you agree?**  
 21 A. Yes.  
 22 **Q. And her asking for the statement isn't**  
 23 **communicating to ARAG that Ronda McNae would accept it.**  
 24 **Do you agree?**  
 25 MR. MULLALY: Same objections.

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1 A. Yes.  
 2 **Q (By Mr. Ruiz) Does ARAG have some problem**  
 3 **with Ronda McNae and Will McNae that we don't know**  
 4 **about?**  
 5 MR. MULLALY: Object to form and scope.  
 6 A. No.  
 7 **Q (By Mr. Ruiz) Does ARAG think that Ronda**  
 8 **McNae and Will McNae should just give up and give**  
 9 **Fitzgerald whatever he wants?**  
 10 MR. MULLALY: Same objections.  
 11 A. No.  
 12 **Q (By Mr. Ruiz) Do you think that on**  
 13 **November 21st, 2023, Ronda McNae and Will McNae were in**  
 14 **a stronger position to resolve the claim, having just**  
 15 **learned that they lost their attorneys?**  
 16 MR. MULLALY: Same objections.  
 17 A. I don't know.  
 18 **Q (By Mr. Ruiz) Does ARAG agree that the**  
 19 **reason Ms. Casey no longer represented Will McNae was**  
 20 **that Will McNae could not afford to pay her?**  
 21 MR. MULLALY: Same objections.  
 22 A. I don't know.  
 23 **Q (By Mr. Ruiz) You don't know one way or**  
 24 **another?**  
 25 A. I don't.

32 (Pages 125 to 128)

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1 Q. Did Will McNae ever express any  
2 dissatisfaction with the work of Ms. Casey?  
3 MR. MULLALY: Same objections.  
4 A. No.  
5 Q. (By Mr. Ruiz) Did Ms. Fotiu-Wojtowicz ever  
6 express any -- strike that.  
7 Did Ronda McNae express any misgivings or  
8 concerns or critiques of the work of  
9 Ms. Fotiu-Wojtowicz?  
10 MR. MULLALY: Same objections.  
11 A. Not that I'm aware of.  
12 Q. (By Mr. Ruiz) Did ARAG do any research into  
13 the reputation of these two attorneys before terminating  
14 them?  
15 MR. MULLALY: Same objections.  
16 A. No.  
17 Q. (By Mr. Ruiz) Do you know what they look  
18 like?  
19 A. No.  
20 Q. Do you know what they sound like?  
21 MR. MULLALY: Same objections.  
22 A. No.  
23 Q. (By Mr. Ruiz) Have you ever seen them  
24 engaged in advocacy?  
25 MR. MULLALY: Object to form.

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1 A. No.  
2 Q. (By Mr. Ruiz) So you don't really know what  
3 they're going to look like when they appear in front of  
4 this jury or in front of the judge and testify, do you?  
5 MR. MULLALY: Same objection.  
6 A. No.  
7 Q. (By Mr. Ruiz) Did you ask anybody about  
8 their reputations? And I mean ARAG. Did anyone at ARAG  
9 do any investigation to find out what Ms. Casey's and  
10 Ms. Fotiu-Wojtowicz's reputations were?  
11 MR. MULLALY: Object to scope.  
12 A. I don't know.  
13 Q. (By Mr. Ruiz) Topic 7 is: Any complaints  
14 filed against ARAG with any state bar association or  
15 involving violations of Rules of Professional Conduct.  
16 Do you understand that the Rules of  
17 Professional Conduct, that that refers to the rules  
18 regarding the legal profession in various jurisdictions?  
19 A. Yes.  
20 Q. What did you do to prepare to testify on this  
21 topic?  
22 A. Having been with the organization for 24  
23 years, any such complaint would have come to my  
24 department.  
25 Q. So did you speak with anybody?

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1 A. No.  
2 Q. Did you do any searches?  
3 A. No.  
4 Q. What documents exist at ARAG that show how  
5 ARAG keeps track of complaints filed against it in any  
6 bar -- state bar association or involving violations of  
7 the Rules of Professional Conduct?  
8 MR. MULLALY: Object to scope.  
9 You can answer.  
10 A. Did you say process documents?  
11 Q. (By Mr. Ruiz) Yes.  
12 A. I don't know that there's anything written.  
13 Q. How does ARAG keep track of any complaints  
14 filed against it with any state bar association?  
15 MR. MULLALY: Object to scope.  
16 A. We've had not had one.  
17 Q. (By Mr. Ruiz) And how about any complaints  
18 involving violations of the Rules of Professional  
19 Conduct or alleged violations? Have you had any?  
20 A. By ARAG? No.  
21 Q. Now, do you know of any against -- any such  
22 complaints with bar associations or involving Rules of  
23 Professional Conduct against Ms. Casey?  
24 MR. MULLALY: Object to scope.  
25 A. No.

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1 Q. (By Mr. Ruiz) How about against  
2 Ms. Fotiu-Wojtowicz?  
3 MR. MULLALY: Same objection.  
4 A. No.  
5 Q. (By Mr. Ruiz) Is an attorney required to  
6 keep representing a civil litigant without getting paid?  
7 MR. MULLALY: Object to scope.  
8 A. I -- I don't know in Washington, what the  
9 requirements would be specifically for this case.  
10 Q. (By Mr. Ruiz) I'm talking about Florida.  
11 A. Oh, sorry.  
12 Q. But you don't know?  
13 A. No.  
14 MR. MULLALY: Same objection.  
15 A. I -- yeah, no.  
16 Q. (By Mr. Ruiz) You know, the Rules of  
17 Professional Conduct have -- in a lot of states have  
18 provisions that deal with the price that an attorney can  
19 charge for their services; you know, how much they can  
20 charge per hour or contingent fee or whatever.  
21 You're aware of that; correct?  
22 MR. MULLALY: Objection to scope.  
23 Q. (By Mr. Ruiz) Correct?  
24 A. Yes.  
25 Q. You have an active bar license, don't you?

33 (Pages 129 to 132)

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1 A. Yes.  
 2 **Q. So you're up to date with the Rules of**  
 3 **Professional Conduct at least in Iowa; correct?**  
 4 A. Yes.  
 5 **Q. Now, has ARAG obtained any opinion regarding**  
 6 **the reasonableness of the hourly rate that Ms. Casey was**  
 7 **charging?**  
 8 MR. MULLALY: Objection to scope.  
 9 A. No.  
 10 **Q (By Mr. Ruiz) How about with respect to**  
 11 **Ms. Fotiu-Wojtowicz?**  
 12 MR. MULLALY: Same objection.  
 13 A. No.  
 14 **Q (By Mr. Ruiz) Did it consider ever getting**  
 15 **anything like that?**  
 16 MR. MULLALY: Same objection.  
 17 A. I don't know.  
 18 **Q (By Mr. Ruiz) Topic 21 is: All bad faith**  
 19 **cases or complaints involving your company lodged**  
 20 **against ARAG in the state of Washington within the last**  
 21 **ten years.**  
 22 **Are there any?**  
 23 A. We had one complaint just a couple months  
 24 ago.  
 25 **Q. Not mine?**

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1 A. No.  
 2 And I'm not sure it's really bad faith, how  
 3 it would be classified. It was a coverage issue for a  
 4 plan member that had an easement, an easement issue, and  
 5 it was both for them and their business. And easements  
 6 for us are only covered in an administrative hearing.  
 7 It was disposed of by the different  
 8 insurance -- or it was closed without any further  
 9 information needed on our part.  
 10 **Q. This was a complaint that was made in front**  
 11 **of the Washington Office of the Insurance Commissioner?**  
 12 A. Yes.  
 13 **Q. What about any complaints filed in court in**  
 14 **the last ten years against ARAG, in Washington?**  
 15 A. No.  
 16 **Q. My topic was limited to Washington, but these**  
 17 **questions involve -- these are process-related questions**  
 18 **about how you would keep track of those records.**  
 19 **Is there a system at ARAG for keeping track**  
 20 **of lawsuits filed against it?**  
 21 MR. MULLALY: Object to scope.  
 22 You can answer.  
 23 A. Yes.  
 24 **Q (By Mr. Ruiz) Describe the system.**  
 25 MR. MULLALY: Object to form and scope.

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1 A. It would be within the legal department. We  
 2 have a file hold system that we would store documents.  
 3 **Q (By Mr. Ruiz) Did you search that repository**  
 4 **for information relating to Washington for today?**  
 5 A. No.  
 6 **Q. Is it searchable?**  
 7 A. Yes.  
 8 **Q. Would you go ahead and search that when you**  
 9 **get back to the office, just to make sure your testimony**  
 10 **here today is correct?**  
 11 A. Yes.  
 12 **Q. Thank you.**  
 13 **I appreciate that. And Mr. Mullaly will let**  
 14 **me know the results of that, I'm sure.**  
 15 MR. MULLALY: I will.  
 16 MR. RUIZ: Why don't we take a ten-minute  
 17 break and, you know, we are getting close to the end  
 18 here, if that's okay with everybody. I know we haven't  
 19 been going that long, but I think this would be the time  
 20 to take a break.  
 21 THE WITNESS: All right.  
 22 THE VIDEOGRAPHER: Going off the record. The  
 23 time now is approximately 1:05 p.m.  
 24 (Recess 1:05 p.m. to 1:16 p.m.)  
 25 THE VIDEOGRAPHER: Back on the record. The

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1 time now is approximately 1:16 p.m.  
 2 **Q (By Mr. Ruiz) A follow-up question regarding**  
 3 **the subject of Mr. Mullaly's role in claims handling.**  
 4 **Did Derek Overton provide Mr. Mullaly any**  
 5 **information that assisted him in giving a coverage**  
 6 **opinion or writing a communication regarding coverage?**  
 7 A. I don't believe so.  
 8 **Q. What about Chris Thomas?**  
 9 A. I don't believe so.  
 10 **Q. What about anybody else from the**  
 11 **multifunctional team that assists in drafting contract**  
 12 **language?**  
 13 A. I don't believe so.  
 14 I mean, outside of me.  
 15 (Crosstalk)  
 16 A. I gave him the policy, the certificate.  
 17 **Q. And did you give him any other information**  
 18 **besides the policy and the certificate?**  
 19 A. Probably just the certificate.  
 20 **Q. Did you give him any information along the**  
 21 **lines of: I was there when this provision was drafted**  
 22 **and here's what we intended?**  
 23 A. Not that I'm aware of.  
 24 **Q. What about with respect to Ms. Hudson? Was**  
 25 **Ms. Hudson giving -- given any information from Derek**

34 (Pages 133 to 136)



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**Overton?**

A. No, I don't believe so.

**Q. Or from Chris Thomas?**

A. I don't believe so.

**Q. Or from anyone else in the multifunctional team that assists in drafting language?**

A. So again, me. I would have given her information.

**Q. Did you give Ms. Hudson any information along the lines of: I was there when this language was drafted and here's what was intended by the drafters?**

A. Not that --

MR. MULLALY: Object to form.

You can answer.

A. Not that I recall.

**Q (By Mr. Ruiz) Now, is there written down anywhere in ARAG, that you know of, an analysis of the drafting history of the exclusions in the policy?**

MR. MULLALY: Object. Scope.

You can answer.

A. No. All of the iterations, I'm sure we've got all of the iterations of the different drafts.

**Q (By Mr. Ruiz) Did ARAG provide either Mr. Mullaly or Ms. Hudson copies of any claims handling procedures or policies to assist in their work on**

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**Q (By Mr. Ruiz) Was there a meeting, or how did the discussion happen?**

MR. MULLALY: Same objection.

A. I think it was a conversation, because -- just saying should we try this, is this something that we feel looks like it could move things forward.

**Q (By Mr. Ruiz) Is there any record of that discussion between you and Ms. Beck?**

MR. MULLALY: Same objection.

A. Not that I'm aware of.

**Q (By Mr. Ruiz) But it happened face to face?**

A. Most likely. I can't recall.

**Q. Is there any record that says are the conditions under which ARAG will pay for the mediation?**

MR. MULLALY: Same objection.

A. Outside of the letter itself, no.

**Q (By Mr. Ruiz) Is there any document that says here are the facts that ARAG is relying on in agreeing to pay for the mediation?**

MR. MULLALY: Objection. Form and scope.

A. Not that I'm aware of.

**Q (By Mr. Ruiz) Who asked who? Did ARAG raise the issue of mediation, paying for it, to the attorneys or did the attorneys ask ARAG to pay for the mediation?**

MR. MULLALY: Object to scope.

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**coverage?**

A. No.

MR. RUIZ: Please mark this Exhibit 3. It's entitled "Participants and Decisionmakers." (Exhibit No. 3 introduced.)

**Q (By Mr. Ruiz) Do you remember seeing this on Friday?**

A. Yes.

**Q. The only reason I'm showing it to you is to call your attention to number 4.****Do you see number 4? It's called: Inquiry relating to mediation July 26, 2023?**

A. Yes.

**Q. And the reason -- this is a follow-up to the discussion we've already had about mediation and what ARAG was thinking at the time. Okay?**

A. Yes.

**Q. So let me ask you, who are all of the people at ARAG that participated in the decision to inquire about mediation?**

MR. MULLALY: Object to scope.

You can answer.

A. If I recall, it was Jen Beck, myself.

I can't remember if Meagen was involved in that discussion or not.

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A. We raised it with them.

**Q (By Mr. Ruiz) That was not something that they asked for; true?**

MR. MULLALY: Same objection.

A. True.

**Q (By Mr. Ruiz) And who chose the mediator?**

MR. MULLALY: Same objection.

**Q (By Mr. Ruiz) I'll withdraw the question.****Who first said the name of the eventual mediator: ARAG or the attorneys?**

MR. MULLALY: Same objection.

A. ARAG.

**Q (By Mr. Ruiz) Are you sure?**

MR. MULLALY: Same objection.

A. I'm pretty confident.

**Q (By Mr. Ruiz) Did anyone from ARAG have a telephone conversation or some other voice communication with Ms. Casey or Ms. Fotiu-Wojtowicz before agreeing to pay for the mediation?**

MR. MULLALY: Same objection.

A. I don't know.

**Q (By Mr. Ruiz) Now, the policy doesn't say that ARAG pays for a mediation; true?**

MR. MULLALY: Object to form and scope.

A. True.

35 (Pages 137 to 140)

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1 Q (By Mr. Ruiz) So what was in it for ARAG in  
2 offering to pay for a benefit that's not covered by the  
3 policy?

4 MR. MULLALY: Objection. Scope.

5 A. I think in looking at the notes, we had a  
6 belief that a mediation -- there was potential that a  
7 mediation could resolve the issue.

8 Q (By Mr. Ruiz) And, therefore, end the need  
9 for payment of legal services?

10 A. Yes.

11 Q. Because if the settlement involved payment of  
12 money damages by the McNaes, ARAG wouldn't have helped  
13 them pay those amounts; right?

14 MR. MULLALY: Object to form and scope.

15 A. Correct.

16 Q (By Mr. Ruiz) And if Ronda McNae had agreed  
17 to say that she had been lying all this time about being  
18 sexually assaulted, ARAG wasn't going to compensate her  
19 for that either; right?

20 MR. MULLALY: Object to form.

21 A. Correct.

22 Q (By Mr. Ruiz) Who ultimately made the  
23 decision to send the letter inviting mediation?

24 MR. MULLALY: Object to scope.

25 A. Similar, it was discussed and agreed upon

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1 testify that there's a duty to make reasonable efforts  
2 to resolve claims; right?

3 A. Yes.

4 Q. Agreeing to mediate is one thing you can do  
5 that's an effort to resolve a claim; right?

6 A. It is one thing, yes.

7 Q. Anything else about ARAG's decision -- well,  
8 strike that.

9 Are there any documents at ARAG that describe  
10 the situations in which it will pay for a mediation when  
11 the mediation is not covered by the policy?

12 MR. MULLALY: Object to scope.

13 A. No.

14 Q (By Mr. Ruiz) Are there any policies and  
15 procedures that guide employees of ARAG in making a  
16 decision like that?

17 MR. MULLALY: Same objection.

18 A. No.

19 Q (By Mr. Ruiz) Who had to approve the  
20 expenditure of this money, the cost of mediation?  
21 Because it's not cheap; right?

22 MR. MULLALY: Same objection.

23 Q (By Mr. Ruiz) Let me ask it again.

24 Who at ARAG approved the expenditure of money  
25 on the mediation?

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1 to -- to offer.

2 Q (By Mr. Ruiz) Discussed and agreed upon by  
3 who?

4 MR. MULLALY: Same objection.

5 A. I know, at minimum, it was myself and Jen  
6 Beck. And I believe there was at least one other person  
7 that was involved. I just can't recall exactly who.

8 Q (By Mr. Ruiz) And again, is there any record  
9 of who was involved and when the decision was made?

10 MR. MULLALY: Same objection.

11 A. Not that I can think of.

12 Q (By Mr. Ruiz) Is there any record that says  
13 the reasons ARAG is agreeing to pay for the mediation?

14 MR. MULLALY: Same objection.

15 A. Not that I'm aware of.

16 Q (By Mr. Ruiz) If Ms. Casey and Ms. -- or  
17 Ms. Fotiu-Wojtowicz had come back to ARAG and said, no,  
18 absolutely not, we won't mediate, what would ARAG have  
19 done with that information?

20 MR. MULLALY: Object to form. Scope. Object  
21 to the extent it calls for speculation.

22 You can answer.

23 A. Nothing. I -- I can't think of anything we  
24 would have done.

25 Q (By Mr. Ruiz) Well, you heard Ms. Adams

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1 MR. MULLALY: Object to scope.

2 A. I don't recall if we got a -- like a finance  
3 approval or not, if that was one of the hoops that we  
4 jumped through.

5 Q (By Mr. Ruiz) Did ARAG participate in the  
6 mediation?

7 MR. MULLALY: Object to scope.

8 A. No.

9 Q (By Mr. Ruiz) Did it ask to?

10 MR. MULLALY: Same objection.

11 A. No.

12 Q (By Mr. Ruiz) Did it ever speak with or  
13 communicate with the mediator?

14 MR. MULLALY: Same objection.

15 A. Just for payment, is -- what I understand, we  
16 only did do -- arrange payment.

17 Q (By Mr. Ruiz) Other than that?

18 MR. MULLALY: Same objection.

19 A. Not that I'm aware of.

20 MR. RUIZ: Please mark this Exhibit 4.  
(Exhibit No. 4 introduced.)

21 Q (By Mr. Ruiz) We're going to do a little bit  
22 of work here, Ms. Cosimano. So the questions from here  
23 through the end of this deposition are going to relate  
24 to ARAG's criticisms relating to plaintiffs or  
25

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1 plaintiffs' representatives. But I want us to use two  
2 frames of time.

3 I want to hear from you first just the bullet  
4 points of what the criticisms are that ARAG had,  
5 criticisms that ARAG had on November 20, 2023, and  
6 before, and then separately, any new criticisms that  
7 have come to light that ARAG has now from November 21st,  
8 2023 and after.

9 Okay?

10 A. Yes.

11 Q. And, of course, I'm going to ask you my  
12 follow-up questions once we outline what these are and  
13 ask you what kind of documents exist, who told you, all  
14 that kind of stuff.

15 All right?

16 A. Yes.

17 Q. So let's start on by you enumerating the  
18 criticisms ARAG had relating to plaintiffs or  
19 plaintiffs' representatives that it had on November 20th  
20 or before.

21 MR. MULLALY: Objection to form.

22 You can answer.

23 A. As far as plaintiffs before November 20th...

24 I don't -- I don't have any criticisms of  
25 plaintiffs.

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1 A. And then the mediation, just being led to  
2 believe that there might be more -- mediation might have  
3 a higher likelihood of a positive outcome, feeling we  
4 were led to believe it might have a higher possibility  
5 of positive outcome than what it actually had.

6 Q. What else?

7 A. Can you scroll up again?

8 Q. Yes.

9 A. Thank you.

10 Q. While you look, I'm going to fix my  
11 capitalizations.

12 A. Okay.

13 MR. MULLALY: While you do that, I'd just  
14 like to put a general objection on the record to any use  
15 of this exhibit as a summary or representation of  
16 Ms. Cosimano's testimony distinct from her testimony  
17 itself.

18 Q (By Mr. Ruiz) Anything else?

19 A. Nothing I can think of right now.

20 Q. Can you read 1 through 7 and let me know if  
21 there's anything that you think might have been unfair  
22 or inaccurate about?

23 MR. MULLALY: Object to form.

24 You can answer.

25 A. Probably that 2 and 3 really should be

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1 Q (By Mr. Ruiz) Okay. That's fine.  
2 What about plaintiffs' representatives?

3 A. For plaintiffs' representatives, it was about  
4 billing -- I'm not going to say peculiarities -- billing  
5 concerns.

6 So there were concerns in -- first, just  
7 overall, the case had been going for -- since August of  
8 '22. By November of '23, there had been over \$800,000  
9 in attorneys' fees and the case essentially -- the stage  
10 that it was at was, you know, completion -- or  
11 discovery, some discovery, and a motion to dismiss, in  
12 comparison to what we had seen other attorneys in  
13 getting to similar gates of litigation. It was  
14 exponentially higher in amount; not by a little.

15 And so then in looking more detailed at the  
16 invoices, there were some areas of peculiarity, for  
17 example, that the two attorneys were indicating time  
18 spent with each other. Some situations where the  
19 time -- the times didn't match. And then overall just a  
20 high volume of those in communication with one another.

21 And I'd say I probably gave you one through  
22 six with that box.

23 Q. All right. Okay. I see. So I can do it  
24 this way, then.

25 What else?

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1 combine -- combined, because it was more in comparison  
2 than just on its own.

3 Q (By Mr. Ruiz) All right. Would you review  
4 1 through 6 and let me know if I've been unfair or  
5 miscaptured anything?

6 A. Yeah. It looks like 3 and 5 are somewhat --  
7 attorneys indicating time spent with each other and high  
8 volume of communication with one another.

9 Q. How about now, 1 through 5, is that a fair  
10 summary of what you've said?

11 MR. MULLALY: Object to form.

12 You can answer.

13 A. Yes.

14 Q (By Mr. Ruiz) Anything else on November  
15 20th, 2023 and before?

16 A. Nothing I can think of right now.

17 Q. Let's go to November 21st, 2023 and after.  
18 Do you still have all those same five concerns?

19 MR. MULLALY: Object to form.

20 You can answer.

21 A. As in none of them were resolved between then  
22 and now in --

23 Q (By Mr. Ruiz) Yes.

24 A. Yes.

25 Q. So I'm just going to go ahead and move them

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1 over there. Okay?

2 A. Yes.

3 Q. What else?

4 A. Really, the -- it's not really a criticism so  
5 much as maybe a clarification.

6 There was a communication that we sent asking  
7 that all communications be sent to the legal inbox. And  
8 probably more for clarification, that was just because  
9 the McNaes were emailing multiple people, like a broad  
10 group of people, and it wasn't consistent in who it was.  
11 So it made us a little concerned that we would miss a  
12 communication that we needed. So we, therefore, just  
13 asked for them to funnel communications to one place.

14 And so I'm not sure I would call it a  
15 criticism; more as wanting to provide guidance to --

16 Q. All right. In fairness to you, I will not  
17 put it down as a criticism since you said it's not  
18 really a criticism, it's just clarifying something.

19 Right?

20 A. Yeah.

21 Q. You're not critiquing the McNaes for that?

22 A. No.

23 Q. All right. So what else? Anything to add on  
24 the second column here?

25 MR. MULLALY: Object to form.

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1 submitted.

2 Q. Anything else?

3 A. Nothing I can think of.

4 Q. Any documents -- well, strike that.

5 Any documents from November 20th, 2023 and  
6 before conveying ARAG's billing concerns to Ms. Casey or  
7 Ms. Fotiu-Wojtowicz?

8 MR. MULLALY: Object scope.

9 You can answer.

10 A. Not that I can think of.

11 Q (By Mr. Ruiz) Are there any documents from  
12 November 20th, 2023 and before that are communicating  
13 billing concerns to either of the McNaes?

14 MR. MULLALY: Same objection.

15 A. None that I know of.

16 Q (By Mr. Ruiz) Is there any document from  
17 November 20th, 2023 and before that says that billing  
18 concerns were a reason for terminating the two  
19 attorneys?

20 A. Not that I'm aware of.

21 Q. Every case is different. Do you agree?

22 A. Yes.

23 Q. So like a dog bite case might have different  
24 legal needs than a case involving sexual assault, for  
25 example. Agree?

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1 You can answer.

2 Q (By Mr. Ruiz) Perhaps to -- any complaints  
3 with Mr. Gomez?

4 A. No.

5 Q. Anything that you'd like me to add in the  
6 second column here, the complaints that or criticisms  
7 relating to plaintiffs or plaintiffs' representatives  
8 that ARAG developed on November 21st, 2023 or after?

9 Sorry. I withdraw the question. That was a  
10 weird way to say that.

11 Any other criticisms relating to plaintiffs  
12 or plaintiffs' representatives that ARAG had on November  
13 21st, 2023 and after?

14 MR. MULLALY: Object to form.

15 You can answer.

16 A. None I can think of.

17 MR. RUIZ: I've uploaded the revised Exhibit  
18 4. This should replace the previous version of Exhibit  
19 4.

20 Q (By Mr. Ruiz) What documents exist at ARAG  
21 relating to the billing concerns it had?

22 A. Just their versions of the bills that they  
23 submitted to us.

24 Q. Anything else?

25 A. And the summary statements that they

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1 A. Yes.

2 Q. And so what other case are you aware of in  
3 which a husband and wife are accused of breaking an NDA  
4 relating to a sexual assault?

5 MR. MULLALY: Object to form and scope.

6 You can answer.

7 A. This was a unique case.

8 Q (By Mr. Ruiz) Okay. But can you -- I mean,  
9 did you research to see if there was another case?

10 MR. MULLALY: Same objections.

11 A. No.

12 Q (By Mr. Ruiz) What research did ARAG do to  
13 determine the ability of Mr. Fitzgerald to continue  
14 funding his plaintiff case?

15 MR. MULLALY: Object to scope.

16 A. None.

17 Q (By Mr. Ruiz) So, you know, if my neighbor  
18 sues me for a dog bite, I might be in for a different  
19 battle than if Elon Musk sues me for breaching an NDA.

20 Does ARAG agree with that?

21 MR. MULLALY: Object to form and scope.

22 A. Seems reasonable.

23 Q (By Mr. Ruiz) Right.

24 The dog bite case against my neighbor, I  
25 might have to pay an attorney significantly less than



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1 the Elon Musk case involving a breach of an NDA; right?

2 MR. MULLALY: Same objections.

3 A. I -- I would assume.

4 **Q (By Mr. Ruiz) All right. So was ARAG able**  
 5 **to find any comparable case involving a high-net-worth**  
 6 **individual bringing a case involving an alleged breach**  
 7 **of an NDA in a sexual assault context?**

8 MR. MULLALY: Same objections.

9 A. None that I'm aware of.

10 **Q (By Mr. Ruiz) So what specific -- if you**  
 11 **could, just specific cases, and I'm looking for names**  
 12 **and types of causes of action, did ARAG compare the**  
 13 **legal fees in this case to?**

14 MR. MULLALY: Same objections.

15 A. It would have been to the most extreme cases  
 16 that we've had submitted here under any cause.

17 **Q (By Mr. Ruiz) Is the McNae case the most**  
 18 **expensive case ARAG has ever had?**

19 MR. MULLALY: Objection. Scope.

20 A. I don't know.

21 **Q (By Mr. Ruiz) Have you looked into that?**

22 MR. MULLALY: Same objection.

23 A. No.

24 **Q (By Mr. Ruiz) And it was an unlimited**  
 25 **benefit, wasn't it?**

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1 You can answer.

2 A. Can you -- can you repeat that? Or --

3 **Q (By Mr. Ruiz) What documents exist at ARAG**  
 4 **that relate to the concern that the total -- regarding**  
 5 **the total amount of attorney fees in comparison to other**  
 6 **attorneys getting to similar gates of litigation?**

7 MR. MULLALY: Objection to form.

8 A. Just knowledge of these cases. There aren't  
 9 a lot that get to this level, so it's being able to  
 10 track those.

11 **Q (By Mr. Ruiz) Yeah, I'm asking about**  
 12 **documents. Are there any documents at ARAG that relate**  
 13 **to the concern it had with respect to the McNaes' claims**  
 14 **on the total amount of attorney fees?**

15 MR. MULLALY: Same objection.

16 A. I would -- their bills themselves, their  
 17 invoices.

18 **Q (By Mr. Ruiz) Anything else?**

19 MR. MULLALY: Same objection.

20 A. Not that I'm aware of.

21 **Q (By Mr. Ruiz) Has anyone done a study of the**  
 22 **historical cases that ARAG has been involved in to**  
 23 **determine, based on that information, what a fair amount**  
 24 **of attorney fees would be in a case like the McNaes'?**

25 MR. MULLALY: Objection to form and scope.

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1 MR. MULLALY: Objection to form and scope.

2 A. I would never say a benefit is unlimited  
 3 without limitations and exclusions. Limitations and  
 4 exclusions apply in the policy.

5 **Q (By Mr. Ruiz) Was there a monetary maximum**  
 6 **on the benefit in this case?**

7 MR. MULLALY: Objection. Scope.

8 A. There were exclusions that could impose a  
 9 monetary maximum.

10 **Q (By Mr. Ruiz) You know what a policy limit**  
 11 **means; right?**

12 A. Yes.

13 **Q. If you ask me what my auto policy limit is,**  
 14 **I'll tell you a million bucks, but I'm not going to tell**  
 15 **you that there's an exclusion for intentional accidents.**

16 **What is the policy limit for defense of a**  
 17 **civil case that applied to the McNaes?**

18 MR. MULLALY: Objection to form and scope.

19 A. Paid in full, subject to the exclusions of  
 20 the policy and the language of the policy.

21 **Q (By Mr. Ruiz) What documents exist relating**  
 22 **to the concern that ARAG had of the total amount of**  
 23 **attorney fees in comparison to other attorneys getting**  
 24 **to similar gates of litigation?**

25 MR. MULLALY: Objection to form.

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1 A. Not that I'm aware of.

2 **Q (By Mr. Ruiz) In the history of all the**  
 3 **claims that ARAG has had, there's got to be a claim**  
 4 **that's the cheapest and there's got to be a claim that's**  
 5 **the most expensive.**

6 **Agreed?**

7 MR. MULLALY: Same objections.

8 A. Yes.

9 **Q (By Mr. Ruiz) All right. And the McNaes**  
 10 **didn't choose -- strike that.**

11 **And so long as the policy is in place, ARAG**  
 12 **has to follow the terms and provisions of the policy;**  
 13 **right?**

14 A. Yes.

15 **Q. Even if it results in it being one of the**  
 16 **more expensive cases ARAG has ever had?**

17 A. Yes.

18 **Q. But have you seen a document or a spreadsheet**  
 19 **that lays out what the different amounts of indemnity**  
 20 **that have been paid on different claims historically?**

21 MR. MULLALY: Objection to scope.

22 **Q (By Mr. Ruiz) Like ever?**

23 MR. MULLALY: Same objection.

24 A. At ARAG?

25 **Q (By Mr. Ruiz) Yes.**

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1 A. Not that I can recall.  
 2 **Q. So before today, has anyone done -- looked at**  
 3 **the data to figure out, of all of the civil defense**  
 4 **claims handled by ARAG, what the lowest amount paid and**  
 5 **the highest amount that's ever been paid on indemnity**  
 6 **is?**  
 7 MR. MULLALY: Object to scope.  
 8 A. I don't know.  
 9 **Q (By Mr. Ruiz) And you're aware that attorney**  
 10 **fees generally, the hourly rates, they go up over time.**  
 11 **Right?**  
 12 MR. MULLALY: Same objection.  
 13 A. Yes.  
 14 **Q (By Mr. Ruiz) The average attorney today is**  
 15 **going to get paid more per hour than the same attorney**  
 16 **would have gotten paid 20 years ago. Agreed?**  
 17 MR. MULLALY: Objection to form and scope.  
 18 A. Yes.  
 19 **Q (By Mr. Ruiz) Is there any document at ARAG**  
 20 **from November 20th, 2023rd and before -- strike that. I**  
 21 **said it again.**  
 22 **Is there any document at ARAG from November**  
 23 **20th, 2023 and before that communicates to the attorneys**  
 24 **that ARAG thinks they billed too much?**  
 25 A. I don't know.

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1 MR. MULLALY: Same objection.  
 2 A. No, I don't believe there is.  
 3 **Q (By Mr. Ruiz) And again, no one at ARAG did**  
 4 **an analysis of ARAG's own historical data to quantify**  
 5 **the difference between how much this case was costing**  
 6 **versus past cases; right?**  
 7 A. I don't know.  
 8 MR. MULLALY: Objection to form.  
 9 A. I don't know.  
 10 **Q (By Mr. Ruiz) What documents exist**  
 11 **regarding -- strike that, please.**  
 12 **What documents existed on November 20th, 2023**  
 13 **and before at ARAG that criticized the attorneys for**  
 14 **spending too much time with each other or having too**  
 15 **high of a volume of communication with one another?**  
 16 A. I don't know of a document that exists.  
 17 **Q. Was that concern ever communicated to**  
 18 **Ms. Casey or Ms. Fotiu-Wojtowicz before November 20th,**  
 19 **2023?**  
 20 MR. MULLALY: Object to scope.  
 21 A. No.  
 22 **Q (By Mr. Ruiz) Was that ever communicated to**  
 23 **the McNaes before that date?**  
 24 MR. MULLALY: Same objection.  
 25 A. No.

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1 MR. MULLALY: Objection to scope.  
 2 **Q (By Mr. Ruiz) You don't know?**  
 3 A. I don't know.  
 4 **Q. Well, you were a part of the consensus group;**  
 5 **right?**  
 6 MR. MULLALY: Objection to form and scope.  
 7 A. I think your question was to any attorney.  
 8 **Q (By Mr. Ruiz) Oh, I'm talking about the --**  
 9 **well, to Ms. Casey and Ms. Fotiu-Wojtowicz.**  
 10 **Is there any document that communicated to**  
 11 **Ms. Casey and Ms. Fotiu-Wojtowicz ARAG's concern that**  
 12 **they were -- that the total amount that they were**  
 13 **billing was too high?**  
 14 MR. MULLALY: Objection. Scope.  
 15 A. I don't believe there is.  
 16 **Q (By Mr. Ruiz) What about any communication**  
 17 **to the McNaes saying the same thing?**  
 18 MR. MULLALY: Same objection.  
 19 A. Before November 20th, no, I don't believe  
 20 there was.  
 21 **Q (By Mr. Ruiz) And is there any document**  
 22 **inside of ARAG that says -- and I'm talking again from**  
 23 **November 20th, 2023 and before -- that says that the**  
 24 **total amount of attorney fees that's been billed so far**  
 25 **is one of the reasons we're terminating these attorneys?**

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1 **Q (By Mr. Ruiz) Is there any document from**  
 2 **November 20th, 2023 and before inside of ARAG that says**  
 3 **one of the reasons we're terminating Ms. Casey and**  
 4 **Ms. Fotiu-Wojtowicz is that they are spending too much**  
 5 **time communicating with each other?**  
 6 MR. MULLALY: Objection to form and scope.  
 7 A. Not that I'm aware of.  
 8 **Q (By Mr. Ruiz) Are there any documents inside**  
 9 **of ARAG that existed on November 20th, 2023 and before**  
 10 **that called out the situations in which times didn't**  
 11 **match on invoices?**  
 12 MR. MULLALY: Object to scope.  
 13 A. Not that I'm aware of.  
 14 **Q (By Mr. Ruiz) Does ARAG believe that**  
 15 **Ms. Casey was billing for work she did not do?**  
 16 A. I don't know.  
 17 **Q. Does ARAG believe that Ms. Fotiu-Wojtowicz**  
 18 **was billing for work she did not do?**  
 19 A. I don't know.  
 20 **Q. Has ARAG investigated whether Ms. Casey or**  
 21 **Ms. Fotiu-Wojtowicz were billing for work they did not**  
 22 **do?**  
 23 MR. MULLALY: Object to scope.  
 24 A. No.  
 25 **Q (By Mr. Ruiz) Has anyone inside of ARAG**

40 (Pages 157 to 160)

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1 accused Ms. Casey or Ms. Fotiu-Wojtowicz for billing for  
2 work they did not do?

3 A. Clarify "accused."

4 Q. Well, I guess I just mean accused.

5 Has anyone inside of ARAG accused them of  
6 billing for work they did not do?

7 MR. MULLALY: Object to form.

8 A. I don't know.

9 Q. (By Mr. Ruiz) Have you ever looked at the  
10 docket from the Fitzgerald versus McNae federal case?

11 A. I believe I have.

12 Q. How recently?

13 A. Not recently.

14 Q. Had you looked at it on November 20th, 2023?

15 MR. MULLALY: Object to scope.

16 A. Yes.

17 Q. (By Mr. Ruiz) Have you ever tried to  
18 download the whole docket from PACER?

19 A. No.

20 Q. Do you know how long it would take to do  
21 that?

22 A. No.

23 Q. Okay. Do you know how big the PACER file is  
24 for the Fitzgerald versus McNae case, the federal case?

25 A. No.

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1 A. I don't know.

2 Q. (By Mr. Ruiz) Did they ever file anything  
3 that wasted the court's time?

4 MR. MULLALY: Same objections.

5 A. I don't know.

6 Q. (By Mr. Ruiz) Did they file ever -- before  
7 November 20th, 2023, was there anything on file that  
8 Ms. Casey or Ms. Fotiu-Wojtowicz put in that told ARAG,  
9 these people don't want to resolve the case, they just  
10 want to milk it?

11 MR. MULLALY: Same objections.

12 A. I don't know.

13 Q. (By Mr. Ruiz) Is there any document that  
14 communicates to the McNaes ARAG's concern that the  
15 attorneys were spending too much time communicating with  
16 each other?

17 MR. MULLALY: Objection to scope.

18 A. No.

19 Q. (By Mr. Ruiz) And is there any -- I may have  
20 already asked this, but I want to make sure I don't  
21 forget.

22 Is there any document at ARAG that says that  
23 the attorneys communicating with each other too much is  
24 one of the reasons they're being terminated?

25 MR. MULLALY: Same objection.

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1 MR. MULLALY: Object to form and scope.

2 Q. (By Mr. Ruiz) You've seen lots of federal  
3 dockets; right?

4 A. "Lots"? I don't know what "lots" is.

5 Q. A fair point.

6 You know, one of the things I love to do is  
7 go look at the federal dockets for my competitors, their  
8 cases against insurance companies. Sometimes I'm  
9 surprised that they only have ten entries or twelve  
10 entries and then there's a resolution.

11 My cases, as you know, they tend to have more  
12 entries than that, even though we try to be efficient.

13 But if you go look at the Fitzgerald versus  
14 McNae federal case, there's a whole lot more than 20 or  
15 30 or 40 entries. Do you agree?

16 A. Yes.

17 MR. MULLALY: Object to form.

18 Q. (By Mr. Ruiz) On the face of the docket,  
19 it's a heavily litigated case; correct?

20 MR. MULLALY: Object to form and scope.

21 A. Yes.

22 Q. (By Mr. Ruiz) Did Ms. Casey or  
23 Ms. Fotiu-Wojtowicz ever file something that was  
24 frivolous or unfounded?

25 MR. MULLALY: Same objections.

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1 A. No.

2 Q. (By Mr. Ruiz) What documents exist at ARAG  
3 relating to situations in which the attorney times  
4 didn't match each other?

5 A. Specific to this case?

6 Q. Yes, I'm talking about the McNaes' claims.

7 A. None that I'm aware of. Just the bills  
8 themselves.

9 Q. Let me ask another question, because there's  
10 another phenomenon called double billing, which is the  
11 attorney billing twice for the same work that they did.

12 Does ARAG contend that Ms. Casey double-  
13 billed work?

14 A. I don't know.

15 MR. MULLALY: Object to form.

16 A. I don't know.

17 Q. (By Mr. Ruiz) Does ARAG contend that  
18 Ms. Fotiu-Wojtowicz double-billed for work?

19 MR. MULLALY: Object to form.

20 A. Can you clarify what you mean by double  
21 billing?

22 Q. (By Mr. Ruiz) Double billing means I bill  
23 you twice for the same thing I did once.

24 A. Yeah, I -- I don't know. That wasn't  
25 something specifically that I recall being discussed.

41 (Pages 161 to 164)

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1 **Q. Back to the criticism that the situations --**  
 2 **that there were situations in which times on invoices**  
 3 **didn't match. Can you elaborate on that?**  
 4 A. Yeah.  
 5 There were times where maybe there was an  
 6 entry in both invoices that there was a phone call or a  
 7 meeting or something that they had to do together but  
 8 the amount of time spent wasn't the same.  
 9 **Q. Did ARAG ever try to talk to the attorneys**  
 10 **about that?**  
 11 A. No.  
 12 MR. MULLALY: Object to scope.  
 13 **Q (By Mr. Ruiz) Did ARAG ever try to**  
 14 **communicate to the attorneys about that?**  
 15 MR. MULLALY: Same objection.  
 16 A. No.  
 17 **Q (By Mr. Ruiz) How about to the McNaes?**  
 18 MR. MULLALY: Same objection.  
 19 A. No.  
 20 **Q (By Mr. Ruiz) Did ARAG explore the**  
 21 **possibility that maybe one person was under-billing the**  
 22 **amount of time?**  
 23 A. No.  
 24 MR. MULLALY: Same objection.  
 25 A. No.

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1 **Q (By Mr. Ruiz) Did ARAG just assume that one**  
 2 **of them was cheating?**  
 3 MR. MULLALY: Objection to form. Scope.  
 4 A. No.  
 5 **Q (By Mr. Ruiz) Is ARAG saying that one or the**  
 6 **other, Ms. Casey or Ms. Fotiu-Wojtowicz, was cheating?**  
 7 A. No.  
 8 **Q. Is ARAG saying that one or the other,**  
 9 **Ms. Casey or Ms. Fotiu-Wojtowicz, was committing fraud**  
 10 **on ARAG?**  
 11 A. I wouldn't -- I wouldn't want to say that.  
 12 **Q. And you're -- well, here you have to say the**  
 13 **truth.**  
 14 **So is ARAG saying that?**  
 15 A. No, meaning I wouldn't want to say that  
 16 without having done the work necessary to make a claim  
 17 like that. That's --  
 18 **Q. And you haven't done that?**  
 19 A. -- a serious contention.  
 20 **Q. And you haven't done that kind of work;**  
 21 **right?**  
 22 A. To the level of confidence necessary to  
 23 let -- to lodge a claim like that.  
 24 **Q. You haven't done the work to the level you**  
 25 **would need to make an accusation like that?**

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1 A. Right.  
 2 **Q. For example, you haven't talked to the**  
 3 **attorneys about it; right?**  
 4 A. Right.  
 5 **Q. And you haven't tried to?**  
 6 A. No.  
 7 **Q. And you haven't reported them to the bar**  
 8 **association or anything like that; right?**  
 9 A. No.  
 10 **Q. And you haven't talked to the McNaes about**  
 11 **this concern; right?**  
 12 A. No.  
 13 **Q. You didn't send any communication to the --**  
 14 **to the McNaes regarding this concern that there was**  
 15 **situations in which times on invoices didn't match;**  
 16 **right?**  
 17 MR. MULLALY: Object to form and scope.  
 18 A. No.  
 19 **Q (By Mr. Ruiz) Now, give me a sense of**  
 20 **timing.**  
 21 These concerns 1 through 4, there were  
 22 billing concerns, total amount of attorney fees in  
 23 comparison to other attorneys getting to similar gates  
 24 of litigation, attorneys indicating time spent with each  
 25 other, high volume of communication with one another,

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1 and the situations in which times didn't match.  
 2 When did these concerns germinate at ARAG?  
 3 When -- what was the "aha" moment?  
 4 MR. MULLALY: Object to form.  
 5 A. I think it was post the mediation, and then  
 6 that prompted really a deep exploration into the bills  
 7 and looking at the invoices. And so I think all of that  
 8 then was kind of aggregated at that time.  
 9 **Q (By Mr. Ruiz) What do you mean by "deep**  
 10 **exploration"?**  
 11 A. Like going back and looking at all of them  
 12 from the beginning of the representation.  
 13 **Q. And who was it who did that?**  
 14 A. I think it was a combination, but I was -- I  
 15 was definitely one of the people.  
 16 **Q. I've looked at the bills, and maybe your**  
 17 **memory is a lot better than mine, but I don't think I**  
 18 **could do that without writing something down.**  
 19 MR. MULLALY: Object to form.  
 20 **Q (By Mr. Ruiz) Is it possible -- are you**  
 21 **saying that it's possible for a person to lay out all of**  
 22 **those invoices and case status updates for not one**  
 23 **attorney but two attorneys and be able to do the**  
 24 **analysis that you're talking about without writing**  
 25 **anything down?**

42 (Pages 165 to 168)

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1 MR. MULLALY: Object to form and scope.  
 2 A. Yes.  
 3 **Q (By Mr. Ruiz) Did you mark up the invoices?**  
 4 **Did you highlight? Did you make notes on the side?**  
 5 MR. MULLALY: Same objections.  
 6 A. No.  
 7 **Q (By Mr. Ruiz) Did you make a list of**  
 8 **questions you'd like to ask the attorneys?**  
 9 MR. MULLALY: Same objections.  
 10 A. No.  
 11 **Q (By Mr. Ruiz) Did you make a list of bullet**  
 12 **points of things you're going to raise with Ms. Beck or**  
 13 **somebody else over at ARAG?**  
 14 MR. MULLALY: Object to scope.  
 15 A. No.  
 16 **Q (By Mr. Ruiz) You just read through them and**  
 17 **kept all this information in your mind?**  
 18 MR. MULLALY: Object to form and scope.  
 19 A. Compared, did back-and-forth comparison.  
 20 **Q (By Mr. Ruiz) But you kept --**  
 21 **(Crosstalk)**  
 22 **Q. -- all that information in your mind. You**  
 23 **didn't write it down?**  
 24 A. Yes.  
 25 **Q. You didn't dictate your thoughts?**

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1 **you didn't write anything down?**  
 2 MR. MULLALY: Same objections.  
 3 A. I don't believe I did.  
 4 **Q (By Mr. Ruiz) Do you ever take notes?**  
 5 A. Yes.  
 6 **Q. Did you take notes when Mr. Mullaly was**  
 7 **prepping you for today's deposition?**  
 8 A. A few.  
 9 **Q. You took some notes; right?**  
 10 A. Yeah.  
 11 **Q. But you didn't take any notes in the**  
 12 **comparison of all these invoices?**  
 13 MR. MULLALY: Object to scope.  
 14 A. No. Not -- because they're -- the way that  
 15 they are in the computer.  
 16 **Q (By Mr. Ruiz) Right.**  
 17 **But you have legal pads at ARAG; right?**  
 18 A. Yes.  
 19 MR. MULLALY: Object to form.  
 20 **Q (By Mr. Ruiz) Yeah. And we use those -- we**  
 21 **use those to make notes as attorneys; right?**  
 22 A. Yes.  
 23 **Q. But you didn't use one when you were making**  
 24 **this critical decision with respect to the McNaes.**  
 25 **Agreed?**

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1 A. No.  
 2 **Q. You didn't send a message on Teams or text or**  
 3 **an email to anybody?**  
 4 MR. MULLALY: Same objections.  
 5 A. No.  
 6 **Q (By Mr. Ruiz) Now, did you print these out**  
 7 **or were you looking at them on the computer?**  
 8 A. Computer.  
 9 **Q. You never printed them out?**  
 10 A. No, I didn't.  
 11 **Q. Do you understand why it's a little bit hard**  
 12 **to believe -- I believe -- I want to believe you, but**  
 13 **it's a little bit hard to believe that you looked at all**  
 14 **of those invoices on top of everything you have to do at**  
 15 **work at ARAG that you talked about earlier today, all**  
 16 **your responsibilities, and that you would be able to**  
 17 **keep all of those comparisons and criticisms and**  
 18 **questions you had in your mind without writing anything**  
 19 **down?**  
 20 **Do you understand why that might be a little**  
 21 **bit difficult for me to swallow?**  
 22 MR. MULLALY: Object to form and scope.  
 23 A. I'm not going to deny that you feel that way.  
 24 **Q (By Mr. Ruiz) But you're certain, you're a**  
 25 **hundred percent sure you didn't -- you did that work and**

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1 A. Not that I recall.  
 2 **Q. Is there any document at ARAG that says that**  
 3 **the situations in which the times didn't match, that**  
 4 **that was one of the reasons for terminating the**  
 5 **attorneys?**  
 6 MR. MULLALY: Objection to scope.  
 7 A. No.  
 8 **Q (By Mr. Ruiz) Is there any document that**  
 9 **relates to the concern that ARAG felt it had been led to**  
 10 **believe that mediation would have a higher likelihood of**  
 11 **a positive outcome?**  
 12 MR. MULLALY: Same objection.  
 13 A. Can you rephrase?  
 14 **Q (By Mr. Ruiz) Sure.**  
 15 **Is there any document at ARAG from November**  
 16 **20th, 2023 or before that says that ARAG has a criticism**  
 17 **or concern that they had somehow been misled about the**  
 18 **likelihood of success of mediation?**  
 19 MR. MULLALY: Same objection.  
 20 A. Not that I recall.  
 21 **Q (By Mr. Ruiz) Did ARAG ever communicate that**  
 22 **to the attorneys on November 20th or before?**  
 23 A. No.  
 24 MR. MULLALY: Same objection.  
 25 **Q (By Mr. Ruiz) What about to the McNaes?**

43 (Pages 169 to 172)



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MR. MULLALY: Same objection.

A. No.

**Q (By Mr. Ruiz) And inside of all of ARAG, from November 20th, 2023 and before, is there any document that says that we were misled into the prospects of mediation and that's one of the reasons we're terminating the attorneys?**

MR. MULLALY: Same objection.

A. Not that I'm aware of.

**Q (By Mr. Ruiz) Let's talk about all of the same things but November 21st, 2023, and after. So what documents exist at ARAG relating to its billing concerns from November 21st and after?**

MR. MULLALY: Same objection.

A. Same documents. The bills and status updates.

**Q (By Mr. Ruiz) What documents exist at ARAG from November 21st and after regarding the total amount of attorney fees that were being charged compared to other attorneys that got to similar gates of litigation?**

MR. MULLALY: Object to form and scope.

A. I'm not aware of anything new, anything additional.

**Q (By Mr. Ruiz) Are there any documents from November 21st, 2023 and after relating to the attorneys**

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**Q. We're talking about the coverage opinion from Mr. Mullaly.**

A. I didn't take the time over lunch to try to do that.

**Q. I don't want you let you go today without giving you another chance to answer that question.**

**Is there a document at ARAG that records Mr. Mullaly's coverage opinion?**

MR. MULLALY: Objection. Scope.

You can answer.

A. I just can't remember if it was written.

**Q (By Mr. Ruiz) Is there any document at ARAG that states the reasons that ARAG was deciding to terminate the two attorneys?**

MR. MULLALY: Objection. Scope.

You can answer.

A. Not that I'm aware of.

**Q (By Mr. Ruiz) And is there any document at ARAG that states the reasons why ARAG was making an exception and would offer to pay for a mediation?**

MR. MULLALY: Objection to scope.

You can answer.

A. Not that I'm aware of.

MR. RUIZ: Can we go off the record?

THE VIDEOGRAPHER: We're going off the

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**indicating that they had spent too much time communicating with each other?**

MR. MULLALY: Same objection.

A. I'm not aware of anything new.

**Q (By Mr. Ruiz) Is there any document from November 21st, 2023 and after regarding situations in which times on invoices didn't match?**

A. I don't believe so.

**Q. Is there any document from November 21st, 2023 and after regarding ARAG feeling it had been led to believe that mediation would have a higher likelihood of a positive outcome?**

A. I don't believe so.

**Q. Any other criticisms, besides what we've covered, of either plaintiffs or their representatives?**

MR. MULLALY: Object to form.

You can answer.

A. None I can think of.

**Q (By Mr. Ruiz) Over lunch, did you have time to think about whether there's any writing or written -- strike that.**

**Have you had any time to think over whether there was -- that coverage opinion is reflected anywhere in writing?**

A. I didn't --

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record. The time now is approximately 2:06 p.m.

(Recess 2:06 p.m. to 2:10 p.m.)

THE VIDEOGRAPHER: Back on the record. The time now is approximately 2:10 p.m.

MR. RUIZ: All right. Thank you, Ms. Cosimano. It was nice to meet you. I don't think I have any more questions right now.

Last Friday, we did talk about the future regarding the ERISA topics, but that's not anything we need to get into today, I don't think.

THE WITNESS: Okay.

MR. MULLALY: Thank you, Isaac. We also have no questions, but we would like to reserve our right to review and sign.

MR. RUIZ: On behalf of plaintiffs, we would like to order Etran with electronic PDF exhibits.

In addition, we don't need the original right now and we don't need the video right now, but I thank you both.

MR. MULLALY: May we please place the same order? Thank you.

THE VIDEOGRAPHER: This concludes the 30(b)(6) deposition of ARAG Insurance Company designee Ann Cosimano. The time now is approximately 2:11 p.m. We are going off the record.

44 (Pages 173 to 176)

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(Reading and signing was requested pursuant to FRCP Rule 30(e).)  
 (Deposition concluded at 2:11 p.m.)  
 (Reporter officially marked exhibits at conclusion of deposition.)

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## REPORTER'S CERTIFICATE

I, KARMEN M. KNUDSON, the undersigned Certified Court Reporter, pursuant to RCW 5.28.010 authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify that the sworn testimony and/or proceedings, a transcript of which is attached, was given before me at the time and place stated therein; that any and/or all witness(es) were duly sworn to testify to the truth; that the sworn testimony and/or proceedings were by me stenographically recorded and transcribed under my supervision, to the best of my ability; that the foregoing transcript contains a full, true, and accurate record of all the sworn testimony and/or proceedings given and occurring at the time and place stated in the transcript; that a review of which was reserved; that I am in no way related to any party to the matter, nor to any counsel, nor do I have any financial interest in the event of the cause. Reading and signing was requested pursuant to FRCP Rule 30(e).

WITNESS MY HAND and DIGITAL SIGNATURE this 28th day of August, 2024.



*Karmen M. Knudson*  
 Karmen M. Knudson, CCR, RPR, CRR  
 Certified Court Reporter No. 1935.

45 (Pages 177 to 178)

# Exhibit 24



**Michael Mullaly**

**McNae v. ARAG Insurance Company**

**July 16, 2024**



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## McNae v. ARAG Insurance Company

Michael Mullaly

Page 1

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLEWILLIAM MCNAE and RONDA MCNAE, )  
husband and wife, )

Plaintiffs, )

) No. 2:24-cv-00211

vs. )

ARAG INSURANCE COMPANY, )

Defendant. )

## VIDEOCONFERENCE DEPOSITION UPON ORAL EXAMINATION

OF

MICHAEL MULLALY

Witness located in  
Columbus, Ohio

(ALL PARTICIPANTS APPEARING VIA VIDEOCONFERENCE)

DATE TAKEN: JULY 16, 2024  
REPORTED BY: ANITA W. SELF, RPR, CCR #3032

Page 2

## A P P E A R A N C E S

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\* \* \* \* \*

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VIDEOCONFERENCE DEPOSITION OF MICHAEL MULLALY  
EXAMINATION INDEXEXAMINATION BY: PAGE  
MR. FADDUOL 4

## EXHIBIT INDEX

## EXHIBITS FOR IDENTIFICATION PAGE

1 Letter dated February 9, 2024 12

2 Email string, Subject: RE:  
ARAG-Draft Letter re William McNae  
State Court Complaint  
(Attorney-Client Privileged) 15  
3 List of Persons and Entities  
Involved 34

\* \* \* \* \*

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COLUMBUS, OHIO; JULY 16, 2024

9:01 A.M.

-oOo-

MICHAEL MULLALY, witness herein, having been  
first duly sworn on oath,  
was examined and testified  
as follows:

## E X A M I N A T I O N

BY MR. FADDUOL:

Q. Okay.

Mr. Mullaly, can you just say something? You  
kind of came off a little quiet there. I want to make  
sure I can hear you okay.

A. Sure. Are you able to hear me well now?

Q. Yeah. I'll turn up my volume a little bit.

Can you state your full name, please?

MR. FADDUOL: I'm sorry, Ben.

MR. ROESCH: I was going to say something  
real quick off the top. I don't think it's -- it  
affects the deposition particularly substantive, but  
wanted to get it on the record, which is that, you  
know, Mr. Mullaly isn't, you know, an employee of  
ARAG. You know, he's not -- we're making him

1 (Pages 1 to 4)

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1 available, you know, in response to the deposition  
2 notice. I think probably, technically, because he's  
3 not a party, you know, a subpoena, you know, would  
4 theoretically be required.

5 All -- all we want to say is that we're  
6 not waiving any sort of rights or arguments as to his  
7 status by virtue of appearing here for the deposition  
8 this morning.

9 MR. FADDUOL: Okay.

10 Well, fair enough. I think that you  
11 appreciate, from our perspective, he was acting as an  
12 agent for ARAG, even though he may not be an employee,  
13 in some capacities, at least. And we will just deal  
14 with those issues later if they become necessary, I  
15 guess.

16 MR. ROESCH: I -- I think that's a good  
17 approach. Thank you, sir.

18 BY MR. FADDUOL:

19 Q. Okay. All right.

20 I apologize, Mr. Mullaly. I think I left off  
21 with: Could you state your full name for the record,  
22 please?

23 A. Certainly. Michael Thomas Mullaly.

24 Q. Mullaly. I apologize. I've been saying your  
25 name wrong this whole time. Okay.

Page 6

1 A. Oh, I don't even notice. It's a tough one.

2 Q. I've got that same issue, so I understand.  
3 Where are you today?

4 A. I'm in Columbus, Ohio.

5 Q. And are you in an office building?

6 A. I am. I'm in my office at Squire Patton  
7 Boggs, not in my fiscal office, but in our offices in  
8 a conference room.

9 Q. Are you alone there in the conference room?

10 A. I am.

11 Q. Okay.

12 And do you reside in Columbus, Ohio?

13 A. I reside in Upper Arlington, Ohio.

14 Q. Have you ever given a deposition before?

15 A. I have not.

16 Q. Have you taken a deposition before?

17 A. I have.

18 Q. Do you have a ballpark idea of how many  
19 depositions you've taken?

20 A. I would say greater than ten.

21 Q. Okay.

22 So I'll skip those rules that we kind of talk  
23 about at the beginning of depositions at times because  
24 I assume that you're familiar with them.

25 But will you agree to tell me today if at any

Page 7

1 time you don't understand one of my questions?

2 A. I will.

3 Q. And will you agree to tell me if I'm unclear  
4 in any of my questions?

5 A. I will.

6 Q. And will you agree not to guess or speculate?

7 If there's something you don't know, will you tell me?

8 A. Yes.

9 Q. In response to one of my questions, of  
10 course.

11 A. Of course, yes.

12 Q. Have you ever testified in court before?

13 A. No, I don't believe I have.

14 Q. Have you ever testified in an arbitration  
15 before?

16 A. No.

17 Q. Have you ever --

18 A. I don't know if you can hear -- sorry. The  
19 video froze momentarily. Sorry. I think it's okay.  
20 Apologies.

21 Q. Okay.

22 Have you ever served as an expert witness in  
23 any case before?

24 A. I have not.

25 Q. Could you just give me a brief background

Page 8

1 sketch of your educational history?

2 A. Sure. Could you tell me a little bit more  
3 what you're looking for?

4 Q. Well, I guess the -- the highlights, such as  
5 college, graduate degrees, any other education like  
6 that, things of that nature?

7 A. Okay. Sure.

8 I have a bachelor's degree from Princeton  
9 University, and a law degree from Boston College Law  
10 School, and no other -- no other formal education.

11 Q. And you hold a law license, correct?

12 A. I do.

13 Q. In what states?

14 A. In Massachusetts and in Ohio.

15 Q. Do you have any certificates or  
16 certifications, or any other type of -- kind of --  
17 maybe less formal education, at least related to the  
18 insurance industry?

19 A. No, I don't have any certifications of that  
20 kind.

21 Q. Can you give me a brief background similar to  
22 your education and experience regarding your work  
23 experience?

24 A. Sure. After law school?

25 Q. Yes.

2 (Pages 5 to 8)

Page 9

1 A. Okay.

2 After law school, I clerked for a year at the  
3 Massachusetts Appeals Court, and then I worked for  
4 three years at a litigation boutique in Boston. Some  
5 people broke off from that to form another litigation  
6 boutique in Boston, and I joined them. And then my  
7 next job was here at Squire Patton Boggs in Columbus.

8 **Q. And how long have you been with Squire?**

9 A. This is my eighth year.

10 **Q. And that -- that first law firm that you**  
11 **worked for after you clerked, what was the name of**  
12 **that firm?**

13 A. It was called Corwin & Corwin --

14 **Q. And what was your --**

15 A. -- C-O-R- -- oh, pardon me.

16 **Q. I'm sorry. Go ahead. I cut you off.**

17 A. C-O-R-W-I-N.

18 **Q. And what was the firm after Corwin?**

19 A. It was named Desmond D-E-S-M-O-N-D, Strang,  
20 S-T-R-A-N-G, & Scott, S-C-O-T-T.

21 **Q. And how long were you at Desmond?**

22 A. I believe about -- less than three years. I  
23 think two to three years.

24 **Q. Before you did your work clerking, had you**  
25 **worked in the -- in the insurance industry at all?**

Page 11

1 **Q. Did you review any documents in preparation**  
2 **for your deposition?**

3 A. Did I review any documents with Ben and Gabe,  
4 or generally?

5 **Q. Either with them or generally in preparation**  
6 **for your deposition.**

7 A. I did not review any documents with Ben and  
8 Gabe. I did look at the coverage position letter that  
9 I prepared in this matter.

10 **Q. Is that the letter -- is that a letter that**  
11 **was sent directly to the McNaes, or a letter that was**  
12 **sent to my office?**

13 A. It was a letter sent to your office in early  
14 February.

15 **Q. Okay.**

16 **So I have up on the screen what I think is**  
17 **the letter you're referring to. Is this the letter**  
18 **that you're referring to? And I can scroll.**

19 A. It's very difficult to read, but yes, I can  
20 read the date, yes.

21 **Q. And I'll tell you, one of the tricky things**  
22 **about these meetings is I can't see what it looks like**  
23 **on your screen, and sometimes, I can kind of play with**  
24 **things a little bit to make them more visible for you,**  
25 **so let me try to do this.**

Page 10

1 A. No. No.

2 **Q. Describe generally what, if anything, you did**  
3 **to prepare for today's deposition.**

4 A. I met with Ben and Gabe on a couple of  
5 occasions, and that's essentially it.

6 **Q. And you're referring to Ben Roesch, who's on**  
7 **the meeting here with us, correct?**

8 A. I am. And Gabe Baker, who is part of Ben's  
9 firm.

10 **Q. And when did you initially meet with them to**  
11 **begin preparing for your deposition?**

12 A. I'm trying to remember. I met with Ben  
13 yesterday. We also met on another occasion, maybe  
14 approximately a week before, and Gabe also  
15 participated on that occasion.

16 **Q. So maybe sometime last week with the meeting**  
17 **with Ben and Gabe?**

18 A. It may have been towards the end of the week  
19 prior, but around that time.

20 **Q. How long did you all meet for?**

21 A. This is an estimate. I would say probably  
22 about two hours each time.

23 **Q. Was anyone else in those meetings other than**  
24 **Ben and Gabe?**

25 A. No.

Page 12

1 **How's that?**

2 A. That's much better. Thank you. And yes, that  
3 is the letter that I reviewed.

4 MR. FADDUOL: Okay.

5 So I will mark this as Exhibit 1 to your  
6 deposition.

7 (Exhibit Number 1 was marked.)

8 BY MR. FADDUOL:

9 **Q. And it's the letter starting with Bates**  
10 **Number ARAG 3516.**

11 **So you reviewed this letter in preparation**  
12 **for your deposition. Did you review any other**  
13 **documents in preparation for your deposition?**

14 A. I did not.

15 **Q. And this is a letter that you drafted,**  
16 **correct?**

17 A. Yes.

18 **Q. Did you have any assistance in drafting this**  
19 **letter?**

20 A. With the composition of the letter, no. No, I  
21 wrote it myself.

22 **Q. And when you said with the composition, that**  
23 **sounded like it had a little asterisk on your answer.**

24 **Is there any further explanation to that**  
25 **that's necessary?**

3 (Pages 9 to 12)

## McNae v. ARAG Insurance Company

Michael Mullaly

Page 13

1 A. I would just say that, you know, the -- the  
2 company, you know, reached its coverage position and  
3 asked me to prepare a letter communicating that  
4 coverage position. So, you know, to the extent that  
5 that was the cadence of events, you know, I -- I'd  
6 want to acknowledge that. But no one assisted me  
7 with, you know, putting the words on the paper.

8 **Q. Okay.**

9 **What is your understanding about how the**  
10 **company -- I assume you're talking about ARAG -- came**  
11 **to its coverage position?**

12 MR. ROESCH: Object to the extent this  
13 calls for attorney-client-protected information and/or  
14 work product.

15 Mr. Mullaly, you can answer to the extent  
16 that you have information independent of those  
17 sources.

18 A. I don't.

19 BY MR. FADDUOL:

20 **Q. Does this letter reflect a coverage position**  
21 **that you came to after an investigation that you did,**  
22 **or does this just recite your understanding of ARAG's**  
23 **coverage position?**

24 MR. ROESCH: Again, object to the extent  
25 that this calls for information protected by the

Page 15

1 BY MR. FADDUOL:

2 **Q. Well, you know what? I think I'll get back**  
3 **to that. I don't want to get too sidetracked on where**  
4 **we're going.**

5 **When did you first become, I guess, involved**  
6 **in this case?**

7 A. I first became involved in this case at the  
8 very end of January of this year.

9 **Q. And do you know when your firm first became**  
10 **involved in this case?**

11 A. To the best of my knowledge, I'd say at the  
12 very end of November of last year, or possibly at the  
13 very beginning of December of last year.

14 MR. FADDUOL: Okay. I have attached a  
15 series of emails that I have marked, and I'm going to  
16 mark as Exhibit 2 to your deposition. They start with  
17 the Bates Number ARAG 3143.

(Exhibit Number 2 was marked.)

19 BY MR. FADDUOL:

20 **Q. Are you able to see this on your screen, sir?**

21 A. I see an email, dated February 2nd, now one  
22 also dated from February 2nd from Ann Cosimano.

23 **Q. Yeah.**

24 **And this is three pages, and I really just**  
25 **want to ask you about the last page.**

Page 14

1 attorney-client privilege, work product doctrine.

2 Mr. Mullaly, you can answer to the extent  
3 that you have knowledge outside of those sources.

4 A. May I ask you to repeat the question, David?  
5 I'm sorry.

6 BY MR. FADDUOL:

7 **Q. Yeah.**

8 **Does this letter reflect -- and I'm referring**  
9 **to Exhibit 1 to your deposition, the letter you**  
10 **drafted -- does it reflect the coverage position that**  
11 **you came to after an investigation into coverage? Or**  
12 **does it simply reflect the company's coverage**  
13 **position, referring to ARAG?**

14 MR. ROESCH: Same objection.

15 But yeah, you can go ahead.

16 A. Thank you. It reflects the company's coverage  
17 position.

18 BY MR. FADDUOL:

19 **Q. Did you do any investigation into the claim**  
20 **that the McNaes submitted to ARAG?**

21 MR. ROESCH: Object to the form.  
22 Ambiguous as to what "investigation" means.

23 A. Yeah. May I -- may I ask what -- what you  
24 mean by "investigation," David?

25 ///

Page 16

1 A. Okay.

2 **Q. But let me know if you want to see any more**  
3 **of this. I'm just -- I kind of scrunched it so that**  
4 **it might be more visible on your screen, but I'm happy**  
5 **to accommodate you. But the first -- I think the**  
6 **first email in this string is this email from you to**  
7 **Ann Cosimano.**

8 **Do you see that?**

9 A. Yes, I see that.

10 **Q. And this is an email on February 1st,**  
11 **correct?**

12 A. It is.

13 **Q. And is this an email that you sent?**

14 A. It is.

15 **Q. And you identify that you are an attorney in**  
16 **Mary Jo's insurance group in the second sentence,**  
17 **correct?**

18 A. That's correct.

19 **Q. Who is Mary Jo?**

20 A. Mary Jo is the practice group leader of the  
21 insurance regulatory group in the Columbus office of  
22 Squire Patton Boggs. She's a former superintendent of  
23 insurance of Ohio.

24 **Q. And did --**

25 (Crosstalk.)

4 (Pages 13 to 16)

Page 17

1 A. She's -- yeah, so she's a partner at the firm  
2 here.

3 (Reporter clarification.)

4 A. I believe I said she's a partner at the firm.  
5 Please tell me if that continues. I can try to get  
6 IT.

7 **Q. Okay.**

8 **So I think where we left off was, I had asked**  
9 **if Mary Jo was a supervisor of yours.**

10 A. I would say yes, she is a supervisor of mine.

11 **Q. And do you work in the -- I think you**  
12 **referred to it as the insurance regulatory group there**  
13 **in Columbus, Ohio.**

14 **Did I remember that correctly?**

15 A. That is correct, and a portion of my work is  
16 with that group.

17 **Q. And how long have you done insurance-related**  
18 **work at Squire?**

19 A. I would say probably seven of my eight years  
20 here, I've had a focus on insurance in one way or  
21 another.

22 **Q. When you were at Corwin or Desmond, did you**  
23 **do insurance-related work?**

24 A. Very little. It would have been incidental.  
25 I mean, I believe I had maybe two or three cases that

Page 19

1 respect to what you mean with respect to the term  
2 "investigate."

3 You can go ahead and answer, yeah, if you  
4 can.

5 A. Did I investigate the claim in that sense? I  
6 would say no, I -- I -- no, I wasn't -- I didn't  
7 perform an investigative function.

8 BY MR. FADDUOL:

9 **Q. Did you evaluate the claims that the McNaes**  
10 **submitted in any way?**

11 MR. ROESCH: Objection. Vague with  
12 respect to meaning of "evaluate."

13 A. I would say that the full answer would require  
14 me to say, I was asked to and I did provide legal  
15 advice in the form of a legal coverage opinion. I  
16 wouldn't characterize that as an evaluation of the  
17 claim. It was legal advice pertaining to coverage and  
18 the company's own exposure. But I didn't perform an  
19 evaluation of the claim, I wouldn't say, no.

20 BY MR. FADDUOL:

21 **Q. And when you refer to your coverage opinion**  
22 **that you provided to the company, is that separate**  
23 **from the doc- -- the letter that we were looking at**  
24 **before, Exhibit 1?**

25 A. Yes, it is. It's separate.

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1 had some kind of nexus to insurance, but it -- it was  
2 attenuated, and I don't remember any of the details.  
3 I would not say that that was, you know, a focus of my  
4 practice at that time.

5 **Q. And there's another person on this email,**  
6 **Chassica Soo.**

7 **Do you see that?**

8 A. Yes, I do.

9 **Q. Who is Chassica?**

10 A. Chassica, I believe, is a senior associate in  
11 our Los Angeles office.

12 **Q. Does she work in the same group as you?**

13 A. No.

14 **Q. Based upon the approximately seven years that**  
15 **you've been doing insurance work, do you have an**  
16 **understanding that insurance companies are obligated**  
17 **to investigate claims that are made to them?**

18 A. That's consistent with my general  
19 understanding, yes.

20 **Q. Okay.**

21 **And in terms of that experience and your**  
22 **understanding of that word "investigate" in that**  
23 **context, did you do any investigation into the claims**  
24 **that the McNaes submitted to ARAG?**

25 MR. ROESCH: Again, object. Vague with

Page 20

1 **Q. Are the conclusions that you came to in your**  
2 **coverage opinion different than the conclusions that**  
3 **are expressed by you in Exhibit 1?**

4 MR. ROESCH: Object to the extent this  
5 calls for attorney-client protected information.

6 You can answer to the extent you have any  
7 independent knowledge.

8 A. I cannot answer without breaching privilege.

9 BY MR. FADDUOL:

10 **Q. Who did you speak to, if anyone, regarding**  
11 **the McNae claims at ARAG?**

12 A. At what time?

13 **Q. At any time.**

14 MR. ROESCH: And just to clarify, David --  
15 sorry -- do you mean with respect to the litigation?  
16 Do you mean with respect to some other aspect of the  
17 claim?

18 MR. FADDUOL: Well, I mean, my impression  
19 is that he wasn't involved with the claim at all  
20 before late February, so I don't think we're talking  
21 about a large window.

22 BY MR. FADDUOL:

23 **Q. And you kind of gave me a weird look there,**  
24 **sir. Do -- do you disagree?**

25 A. I believe you said late February. I think you

5 (Pages 17 to 20)



Page 21

1 meant late January.

2 **Q. I did. I apologize.**

3 A. That's okay.

4 **Q. So, in the time since late January when you**  
 5 **first became involved in this matter, who at ARAG have**  
 6 **you spoken to, if anyone, about anything?**

7 A. About anything? I would say Ann Cosimano and  
 8 Kathy Miller.

9 **Q. Anyone else that you recall?**

10 A. No.

11 **Q. Who is Kathy Miller?**

12 A. Kathy Miller, to the best of my understanding,  
 13 is a paralegal who works with Ann Cosimano at ARAG.

14 **Q. And who is Ann Cosimano?**

15 A. Ann Cosimano is the general counsel of ARAG.

16 **Q. And so I take it, then, your understanding is**  
 17 **that Kathy Miller works within the general counsel's**  
 18 **office at ARAG; is that fair?**

19 A. Yes, that's my understanding.

20 **Q. Have you spoke to anyone at ARAG outside of**  
 21 **the legal department of ARAG?**

22 A. No.

23 **Q. And we actually looked at a letter that you**  
 24 **had written to Ann, correct?**

25 A. We looked at an email I wrote to Ann. Is that

Page 22

1 what you mean?

2 **Q. It is.**

3 A. Yes.

4 **Q. And have you had any written correspondence**  
 5 **with anyone other than Ann or Kathy at ARAG?**

6 A. No, with the possible exception of an IT  
 7 person, you know, just thanking him, but no, no  
 8 substantive communications with anyone other than  
 9 Kathy and Ann.

10 **Q. Have you had any substantive communications**  
 11 **with Stephanie Casey?**

12 A. No.

13 **Q. I'm going to get this name horribly wrong,**  
 14 **but have you had any substantive communications with**  
 15 **Alaina Fotiu-Wojtowicz?**

16 A. No, I have not.

17 MR. FADDUOL: And I'll give you a spelling  
 18 at the end, Anita.  
 19 BY MR. FADDUOL:

20 **Q. You know who I'm referring to by Alaina,**  
 21 **though, correct?**

22 A. I do know who you're referring to, and I would  
 23 be similarly perplexed to say her name, so --

24 **Q. Fair enough. Have you had any substantive**  
 25 **communications with Richard Gomez?**

Page 23

1 A. Well, yes, I have spoken with Richard Gomez.

2 **Q. Okay.**

3 **Tell me about those conversations.**

4 A. I played a limited role in the onboarding of  
 5 Richard Gomez who, to my understanding, is  
 6 representing Ronda McNae and Will McNae in the  
 7 underlying litigations. So the direct communications  
 8 that I had with Mr. Gomez were related to negotiation  
 9 and discussion of a rate at which he would be willing  
 10 to represent Mr. McNae in the state litigation.

11 **Q. And did you say a rate at which he would be**  
 12 **willing to represent?**

13 A. A rate of compensation, the terms under which,  
 14 you know, he would be willing to accept, you know,  
 15 that case.

16 **Q. And did you all come to an agreement?**

17 A. An agreement was reached, but I wasn't a  
 18 participant in -- in that final stage of the  
 19 discussion.

20 **Q. Do you recall when you first interacted with**  
 21 **Richard Gomez?**

22 A. I don't recall specifically, I'm sorry, or  
 23 generally.

24 **Q. Did you have any written communication with**  
 25 **Richard Gomez?**

Page 24

1 A. I believe I did write to him. That -- that  
 2 may have been our initial contact. I don't recall for  
 3 certain. We spoke on the phone also.

4 **Q. Do you think that that written communication**  
 5 **was an email?**

6 A. Yes, it would have been an email.

7 **Q. What is the substance of the communications,**  
 8 **as far as you recall it, with Richard Gomez?**

9 A. It's very general. We had been informed by  
 10 your office that Mr. McNae wished to be represented by  
 11 Mr. Gomez. I believe we had also been informed by  
 12 your office that Mr. McNae had paid something to  
 13 Mr. Gomez, and was seeking reimbursement for that.

14 So I contacted Mr. Gomez to discuss under what  
 15 terms he would represent Mr. McNae as an ARAG network  
 16 attorney because he was unwilling to do so at -- at  
 17 the standard rate. So it was basically soliciting  
 18 from him, you know, information about under what terms  
 19 he would be willing to represent Mr. McNae as a  
 20 network attorney, and discussion of what he had been  
 21 paid by Mr. McNae, and the circumstances surrounding  
 22 that.

23 **Q. And who authorized you at ARAG to conduct**  
 24 **those negotiations with Mr. Gomez?**

25 A. Ann Cosimano.

6 (Pages 21 to 24)

Page 25

**Q. Did you have any -- were you given any guidance as to the bounds of the terms that you were able to negotiate with Mr. Gomez?**

A. No, and I also had no authority. I was relaying information back and forth.

**Q. What was the standard ARAG rate that Mr. Gomez would not agree to?**

A. I don't recall specifically. I'm sorry.

**Q. Do you recall any concerns that Mr. Gomez expressed to you regarding ARAG's standard rate?**

A. Not as such. I mean, what he said to me was that he wanted to be paid a, quote, market rate, something substantially, you know, along those lines. But no, I mean, he didn't -- the discussion was mostly, you know, what rate he wanted, not -- not a comment on ARAG's rates.

**Q. Well, I take it that the rate that he wanted was higher than ARAG's rates; is that fair?**

A. Yes. Yeah.

**Q. And he wasn't asking, at least by his perspective of any premium. He was just asking for the market rate as he perceived it; is that fair?**

MR. ROESCH: Objection. Calls for speculation.

A. I agree. I have no basis for judgment there.

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I mean, he -- he made an assertion about market rate at one point, but I mean, I don't know separate from -- I don't know the full significance of that. It's just what he --

**Q. Yeah. That's what he told you, right?**

A. Yes. Yeah, he did say that.

**Q. Do you recall how many times you spoke to Mr. Gomez?**

A. I'd say three to four. He was very busy, so all of the communications were just kind of circling back to remind him of -- of the kind of open question. But yeah, I'd say two to four times. Certainly more than two. Around four.

**Q. And I think you already said this, but you don't recall even generally when those communications occurred?**

A. Not really. I would be guessing. I'm sorry.

**Q. Are there any notes or documents that show the result of those communications?**

A. Not that I've seen. That show the -- the end outcome, you mean?

**Q. Yes.**

A. Not that I've seen. I mean, there may well be, but I've never seen them.

**Q. At least as to your experience with**

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**Mr. Gomez, where you left off with him, what was the outcome of that negotiation?**

A. He -- I'm sorry. I'm trying to recall, and I don't really. I think he had a question that I relayed to Ann, I believe, but there was nothing settled at that point. I mean, it was still, I'd say, in an information exchange, you know, period, and that, you know, was the last communication I had with him.

**Q. What was --**

A. Then he wrote to me -- oh, sorry -- and said that he and Ann had -- had reached an agreement, I believe. So -- but didn't say what it was. Because I had asked him -- you know, I was following up with him, and that's when he, I think, wrote to me and said, you know, this has been resolved with Ann.

**Q. What was the question that he had for Ann that he relayed to you?**

A. It may have been the -- I don't remember, and I don't remember if it was a question. I don't remember which way the question was directed. I'm sorry, I -- I really shouldn't say it because I just don't know with sufficient certainty. I know one or the other, Ann or Mr. Gomez, had a question that I relayed to the other, and that that was my last

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involvement in that matter.

**Q. Well, whether you were relaying a question from Ann to Richard or Richard was relaying a question from himself to Ann through you, what was the question, if you recall?**

A. I don't recall that. I know it related to, like, amount of compensation. But beyond that, I -- I don't remember.

**Q. Was the entirety of the substance of your communications with Richard regarding the amount of his compensation to represent Will?**

A. Yes, and also about amounts that Will had paid to Mr. Gomez when Will retained him independently. I should include that. But apart from that, yes.

**Q. What is an ARAG network attorney, if you know?**

A. What is an ARAG network attorney? My general understanding is that it is an attorney who has applied to and been qualified to be added to a panel of attorneys who have agreed to represent ARAG insureds at particular rates and under certain conditions. And beyond that, I really don't know.

**Q. And it was your understanding that, at the time you were interacting with him, that Mr. Gomez was an ARAG network attorney, correct?**

7 (Pages 25 to 28)



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1 A. Yes, that's correct.  
 2 **Q. In regards to this matter, have you spoken to**  
 3 **any other ARAG network attorneys?**  
 4 A. No.  
 5 **Q. And I think we've already covered this, but I**  
 6 **just want to make sure I'm covering all my bases.**  
 7 **Before the end of January 2024, you had no**  
 8 **knowledge or experience with the McNaes' case; is that**  
 9 **correct?**  
 10 A. That's correct.  
 11 **Q. Or I guess the -- the claims that the McNaes**  
 12 **had submitted to ARAG.**  
 13 A. Yeah, I think that's right. I mean, I may  
 14 have had a general awareness that Mary Jo was working  
 15 on some case, but I didn't know. I think, in  
 16 retro- -- you know, it was ARAG, but I had no  
 17 substantive knowledge of the case or the claims until  
 18 the end of January of this year.  
 19 **Q. Did you have any involvement with the**  
 20 **drafting of letters between ARAG and the McNaes prior**  
 21 **to your February letter?**  
 22 A. No.  
 23 **Q. Before the McNae matter, had you done any**  
 24 **work for ARAG?**  
 25 A. No, not to my recollection. No, I don't

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1 believe I have.  
 2 **Q. Do you --**  
 3 A. Pardon me --  
 4 MR. ROESCH: And I'll caution the witness  
 5 not to reveal any specific client confidences.  
 6 THE WITNESS: Right.  
 7 A. I believe there was a matter very unrelated  
 8 some years ago with ARAG, but that's it.  
 9 BY MR. FADDUOL:  
 10 **Q. A matter that you worked on with ARAG; is**  
 11 **that what you're saying?**  
 12 A. Yes. I was involved in a matter, but only  
 13 very slightly.  
 14 **Q. What was your role in that previous instance**  
 15 **in working with ARAG generally?**  
 16 MR. ROESCH: And again, very, very  
 17 generally, without revealing any client confidences.  
 18 A. I'm trying to remember. I really don't  
 19 remember, David. I'm sorry. I know there was --  
 20 there was something, but my role was so minor, and it  
 21 was so long ago, I just don't -- I don't remember.  
 22 BY MR. FADDUOL:  
 23 **Q. Let me ask you probably an easier way.**  
 24 A. Okay.  
 25 **Q. Would you agree that negotiating with Richard**

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1 **Gomez to facilitate him acting on behalf of the**  
 2 **McNaes, or representing the McNaes and being paid by**  
 3 **ARAG, constituted, you know, assisting ARAG in**  
 4 **processing that claim?**  
 5 MR. ROESCH: Objection. Vague.  
 6 Go ahead and answer if you can.  
 7 A. I mean, I think that calls for a legal  
 8 conclusion. I don't -- is it -- that's processing the  
 9 claim? I mean, I guess what you're trying to -- are  
 10 you asking -- I guess, just could I ask what you mean  
 11 by -- by processing a claim? I mean, are you talking  
 12 about, you know, discharging some kind of, you know,  
 13 quasi-fiduciary function? Or -- I mean, I -- I guess  
 14 I'm just trying to understand specifically what you're  
 15 asking.  
 16 BY MR. FADDUOL:  
 17 **Q. Yeah.**  
 18 **Will McNae made a claim to ARAG for benefits**  
 19 **under his policy with ARAG, correct?**  
 20 A. Yes.  
 21 **Q. And as part of that claim, and pursuant to a**  
 22 **reservation of rights, ARAG agreed to pay for Richard**  
 23 **Gomez to represent Will, at least with some bounds on**  
 24 **that agreement, correct?**  
 25 A. Yeah, subject to the letter, right.

Page 32

1 **Q. And you assisted in that process by**  
 2 **negotiating with Mr. Gomez, correct?**  
 3 A. I communicated with him. I'm not sure I would  
 4 characterize it as negotiation, but yes, I did have  
 5 communications with him that were intended to  
 6 facilitate a negotiation with him, yes.  
 7 **Q. Okay.**  
 8 **Had you ever done any kind of negotiating on**  
 9 **behalf of ARAG like that in any previous instances?**  
 10 A. With the caveat that I don't think I was  
 11 negotiating on behalf of ARAG, the answer is no, I --  
 12 no.  
 13 **Q. What is a special referral attorney with**  
 14 **ARAG, if you know?**  
 15 MR. ROESCH: And -- yeah, and again, don't  
 16 speculate.  
 17 A. Yeah, I really -- I don't know the details to  
 18 give a complete answer without speculation and  
 19 surmise, so I'm sorry.  
 20 BY MR. FADDUOL:  
 21 **Q. Do you have any knowledge of who was**  
 22 **primarily in charge of handling the McNae claim by**  
 23 **ARAG?**  
 24 MR. ROESCH: Objection --  
 25 A. No.

8 (Pages 29 to 32)

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MR. ROESCH: -- to the extent it calls for attorney-client-privileged communication or work product in the -- in the defense of the lawsuit.

Go ahead and answer to the extent that you have knowledge independent of those.

A. I have no knowledge independent of those.

BY MR. FADDUOL:

**Q. I think I asked you this, but what is your understanding of when your firm first became involved in the McNae claim with ARAG?**

A. My understanding is that it -- that occurred at the very end of November of last year, or the very beginning of December of last year.

**Q. Would you agree that one of the reasons a person buys insurance is to buy peace of mind?**

MR. ROESCH: Objection. Calls for speculation.

A. Yeah, I -- I agree. I mean, I have nothing to say about why a particular person buys insurance.

BY MR. FADDUOL:

**Q. Do you agree that an insurance company has a duty to deal fairly and in good faith with its policyholders?**

A. That's my general understanding, yes.

**Q. Do you agree that an insurance company must**

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**treat its policyholder's interests with equal regard as it's -- as it does its own interests?**

A. That's also consistent with my general understanding.

**Q. Okay.**

MR. FADDUOL: Okay. I am going to mark as Exhibit 3 to your deposition a document that our office created.

(Exhibit Number 3 was marked.)

BY MR. FADDUOL:

**Q. And I'm not trying to hide the ball with you here, sir. This is just a list of names that I've seen in documents, and in no particular order. We've talked about a few of these folks, and I just want to make sure that I've covered all of them with you.**

**Are you able to see this document okay?**

MR. ROESCH: Yeah, David, would you mind blowing it up just a little bit?

MR. FADDUOL: Yeah, and let me do --

MR. ROESCH: Thank you.

BY MR. FADDUOL:

**Q. How's that? Is that a little better?**

A. A little. It's a little fuzzy. I'm sorry.

MR. FADDUOL: I'm just gonna --

MR. ROESCH: Yeah, that's helpful.

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A. There you are. Thank you. For me, at least.

BY MR. FADDUOL:

**Q. Okay.**

**And I'm going to start from the top left and work my way down.**

**We've already talked about Ann, correct?**

A. We have.

**Q. And who is Meagan Adams, if you know?**

A. My concern here is that -- first of all, I don't recall if this is -- go ahead.

MR. ROESCH: Yeah. So, David, I think some of these questions are going to touch on information that Mr. Mullaly only has, you know, as a result of, you know, his -- his work in the litigation. And so, you know, his -- his knowledge, if any, of a lot of these people is going to be, you know, part of his -- his work product.

And -- and the same thing would be true of, you know, the -- the relevance of anything that they did, and -- and that sort of thing. So I guess I -- I don't want to sort of get in the way of this too much, you know, and -- and make a bunch of kind of unnecessary objections.

So I guess, you know, to the extent that Mr. Mullaly knows who these people are, you know, and

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what their functions are at ARAG generally, or with respect to the claim independent of his -- you know, his -- his work product in this case, I -- I think it's okay to answer, but otherwise, I -- I don't think that's proper.

MR. FADDUOL: Well, let me -- let me ask it a different way.

BY MR. FADDUOL:

**Q. Have you ever spoken to Meagan Adams, sir?**

A. I have not.

**Q. Have you ever spoken to Andrea Morse?**

A. No.

**Q. Have you ever spoken to Cathie Kyle?**

A. No.

**Q. Have you ever spoken to Kathy Miller?**

A. Yes, I have.

**Q. And I probably should have asked a better question.**

**Have you ever corresponded in any way with Meagan Adams, Andrea Morse, or Cathie Kyle?**

A. Not to my recollection, I don't believe I have.

**Q. Have you ever corresponded in any way with Jamie Lane?**

A. No.

9 (Pages 33 to 36)

Page 37

1 **Q. Have you ever corresponded with Kari Faust?**  
 2 A. No.  
 3 **Q. Have you ever corresponded with Brittany**  
 4 **Gering?**  
 5 A. No.  
 6 **Q. Have you ever corresponded with Jan Tyler?**  
 7 A. No.  
 8 **Q. Have you ever corresponded with any of the**  
 9 **remaining names in that left column, starting with Jan**  
 10 **Tyler and working your way down?**  
 11 A. No, I don't believe I have.  
 12 **Q. And let's -- just do the left -- the**  
 13 **right-hand side in chunks.**  
 14 **Have you ever corresponded with any of the**  
 15 **folks that I've highlighted on the screen?**  
 16 A. So you've highlighted Jennifer Beck through  
 17 Jeff LeMay, and I don't believe I've corresponded with  
 18 any of them.  
 19 **Q. Okay.**  
 20 **And you're after Mr. LeMay, so we'll skip**  
 21 **you.**  
 22 **We've already spoke about Mary Jo, right?**  
 23 A. We have.  
 24 **Q. Have you ever communicated with Andrea Tyler?**  
 25 A. I don't believe I have, no.

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1 **Q. And the next is Richard Gomez. We've spoken**  
 2 **a little bit about him today.**  
 3 **Other than our -- the communications that we**  
 4 **spoke about today that you had with Mr. Gomez, are**  
 5 **there any others that you've ever had?**  
 6 A. No, I don't believe so. Not that I can  
 7 recall.  
 8 **Q. Okay.**  
 9 **And we've already spoke about Chassica,**  
 10 **right?**  
 11 A. Yes.  
 12 **Q. Have you ever communicated in any way with**  
 13 **Alaina, who I'm struggling to highlight on the screen?**  
 14 **There.**  
 15 A. No, I don't believe I have.  
 16 **Q. Do you know who Anthony Murphy is?**  
 17 MR. ROESCH: Again -- again, objection to  
 18 the extent of work product.  
 19 If you have independent knowledge, go  
 20 ahead and answer.  
 21 A. Yeah, I -- I don't know, and if I did, it  
 22 would be through the source that's been described, so  
 23 no.  
 24 BY MR. FADDUOL:  
 25 **Q. And you've never communicated with Stephanie**

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1 **Casey, correct?**  
 2 A. I have not.  
 3 **Q. Have you ever communicated with Destiny**  
 4 **Nelson?**  
 5 A. No, I don't believe so.  
 6 **Q. Have you ever communicated with Rafael Diaz?**  
 7 A. No, I don't believe so.  
 8 **Q. Have you ever communicated with Jonathon**  
 9 **Cohen?**  
 10 A. I don't believe I have.  
 11 **Q. Have you ever communicated with Darren**  
 12 **Gibbons?**  
 13 A. I believe Darren Gibbons is an IT person  
 14 who -- to whom I've sent a message saying something  
 15 like "Thank you." Other than that, I -- I don't  
 16 believe I have.  
 17 **Q. Is he the IT person that you referenced**  
 18 **earlier in your deposition?**  
 19 A. He is. I believe so. I may be mistaken,  
 20 but -- but I'm pretty sure that he is, yes.  
 21 **Q. Is it your belief that he's an employee at**  
 22 **ARAG?**  
 23 A. I don't know. I mean, I -- I would be  
 24 guessing. I mean, that -- that would make sense, but  
 25 I -- I don't know one way or the other.

Page 40

1 **Q. Have you ever --**  
 2 A. I don't know if he's -- sorry. Go ahead.  
 3 **Q. Have you ever communicated with Heather**  
 4 **Preston?**  
 5 A. I don't believe I have.  
 6 **Q. And have you ever communicated with Sarah**  
 7 **Tharp?**  
 8 A. I don't believe I have.  
 9 **Q. Do you agree that an insurance company has a**  
 10 **duty to act reasonably and fairly in interpreting and**  
 11 **applying its policy provisions?**  
 12 A. Yes. I mean, that's -- that's consistent with  
 13 my general understanding, yes.  
 14 **Q. Do you agree that claims decisions should be**  
 15 **made without regard to effect on company**  
 16 **profitability?**  
 17 A. Yes. That's consistent with my general  
 18 understanding.  
 19 **Q. Do you agree that an insurance company must**  
 20 **fairly, fully, and promptly evaluate and adjust a**  
 21 **claim?**  
 22 A. Yes, that's my understanding.  
 23 **Q. Do you agree that, for a full or partial**  
 24 **denial of a claim, an insurance company must give a**  
 25 **written explanation pointing to facts and policy**

10 (Pages 37 to 40)

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1 provisions?

2 A. Yes. It's my understanding that some, maybe  
3 all, jurisdictions require that.

4 **Q. Would you agree that Washington is one of  
5 those jurisdictions?**

6 A. To my knowledge, it is, but -- I can't speak  
7 to Washington law with certainty, but yeah.

8 **Q. Do you agree that an insurance company  
9 handling a claim in Washington has an obligation to  
10 comply with the claims handling regulations found at  
11 Washington Administrative Code 28 -- excuse me --  
12 284-30?**

13 A. If the handling of the claim is subject to  
14 Washington law, yes.

15 **Q. Do you agree that an insurance company must  
16 complete its investigation of a claim within 30 days  
17 after notification of the claim, unless it cannot  
18 reasonably be completed within that time?**

19 MR. ROESCH: Objection. If we're talking  
20 about specific portions of the Washington  
21 Administrative Code, I think it makes sense to, you  
22 know, put those up for Mr. Mullaly to -- to see.

23 MR. FADDUOL: I wasn't referencing the  
24 Washington Administrative Code.  
25 ///

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1 requirements are in a particular circumstance.

2 And you know, beyond, you know, expressing my  
3 general understanding of, you know, how these  
4 requirements, you know, exist and operate, you know,  
5 I -- I -- I'm -- I can't give a legal opinion about  
6 any specific case.

7 So -- so yeah, I would just say it's -- it's  
8 too vague for me to answer really because I -- I would  
9 have to know the jurisdiction and the particular facts  
10 and circumstances to give an answer. And you know,  
11 that's a hypothetical, so I can't -- I can't give a --  
12 a complete response to that.

13 BY MR. FADDUOL:

14 **Q. Do you recall the February reservation of  
15 rights letter that we were discussing earlier that you  
16 drafted?**

17 A. I do.

18 **Q. In drafting that reservation of rights  
19 letter, did you do any investigation to determine what  
20 coverages applied to the McNaes under their policy  
21 with ARAG?**

22 MR. ROESCH: Object to the extent that  
23 "investigation" is vague, and therefore, to the form.

24 A. Yeah. I mean, with that objection, I mean,  
25 I -- I wouldn't characterize it as an investigation.

Page 42

1 BY MR. FADDUOL:

2 **Q. You can answer, sir.**

3 A. I'm sorry. Would you repeat the question?  
4 Because I -- I believe it said specific days of --  
5 number of days.

6 MR. FADDUOL: Anita, can you repeat that  
7 question for him, please?

8 (The reporter read back the  
9 requested portion.)

10 MR. ROESCH: Object to the form as -- as  
11 vague.

12 A. I'd have to say, I mean, if that is what the  
13 Washington Administrative Code says, and if the claim  
14 is subject to the Washington Administrative Code, then  
15 yes. But I -- I don't have independent knowledge  
16 of -- of what the code says, and I can't speak to it  
17 without seeing it.

18 BY MR. FADDUOL:

19 **Q. So if the Washington Administrative Code says  
20 that, you would agree, assuming the claim falls under  
21 Washington law, but otherwise, you would disagree with  
22 that notion; is that fair?**

23 A. I don't know that I would disagree. I would  
24 just acknowledge that, you know, it can be a function  
25 of -- of local law, you know, what the specific

Page 44

1 I think I may have, you know, made sure I had the --  
2 yeah, I mean, I may have looked at the state court  
3 docket. But investigate? No.

4 BY MR. FADDUOL:

5 **Q. Okay.**

6 **So, in drafting that letter, you reviewed the  
7 state court docket. Are you talking about in the  
8 Florida matters?**

9 A. I'm talking about in the Florida state court  
10 matter pertaining to William McNae because that letter  
11 addressed only William McNae.

12 **Q. In drafting that letter, did you speak to  
13 anyone regarding the coverage analysis contained in  
14 that letter?**

15 MR. ROESCH: So object to the extent this  
16 calls for attorney-client-privileged information, as  
17 well as work product.

18 You can answer to the extent of the  
19 existence of any communications, but not their  
20 substance.

21 A. So I was asked to and did provide a legal  
22 coverage opinion on the -- you know, the company  
23 reached a coverage position and -- and told me, you  
24 know, what that coverage position was, and asked me to  
25 communicate it in a letter, and -- and that's what I

11 (Pages 41 to 44)



Page 45

1 did.

2 BY MR. FADDUOL:

3 **Q. And my question is, geared toward any**  
 4 **investigation that you did in drafting that letter,**  
 5 **and in investigating the coverage opinion that you**  
 6 **expressed in your February letter, did you do any kind**  
 7 **of communicating with anyone in investigating the**  
 8 **opinions that you held on -- that you put in the**  
 9 **letter?**

10 MR. ROESCH: Objection. Vague.

11 A. Yeah. I mean, not to be -- I mean, I wouldn't  
 12 characterize the February letter as containing my  
 13 coverage analysis. That -- that was a separate --  
 14 that was conveyed separately. I mean, I was -- I had  
 15 discussions with the company about what coverage  
 16 position they wanted to take. That's the decision  
 17 they reached, and they asked me to communicate that  
 18 position. And those are the communications I had  
 19 surrounding the drafting of the February 9th letter.

20 BY MR. FADDUOL:

21 **Q. In drafting the February 9th letter, did you**  
 22 **review any documents other than the correspondence --**  
 23 **excuse me -- other than the claim documents from the**  
 24 **Florida matter? That was a bad question. Let me**  
 25 **start that one over.**

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1 MR. ROESCH: Yeah. Thank you.

2 BY MR. FADDUOL:

3 **Q. In drafting your February reservation of**  
 4 **rights letter, did you review any documents other than**  
 5 **the Florida state pleadings?**

6 A. I don't remember. I may have reviewed past  
 7 communications to the McNaes, but I don't recall if  
 8 that's true, and if it is, I don't recall which ones.

9 **Q. Did you review any of the insurance policies**  
 10 **in drafting that letter?**

11 A. Yes.

12 **Q. So in drafting that letter, you reviewed some**  
 13 **state court pleadings, you reviewed the insurance**  
 14 **policies, and maybe communications with the McNaes.**  
 15 **Anything else?**

16 A. Not that I can recall.

17 **Q. Is there anything that you wanted to review**  
 18 **that you were unable to review for any reason in**  
 19 **drafting that letter?**

20 A. Not that I recall.

21 **Q. And I think we've covered this, but just to**  
 22 **be specific, the February 9th letter does not contain**  
 23 **your coverage analysis; it contains the coverage**  
 24 **analysis done by ARAG, correct?**

25 MR. ROESCH: Object to the extent --

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1 A. Yes.

2 MR. ROESCH: Yeah. So I -- just vague in  
 3 terms of "coverage analysis" versus "coverage  
 4 position."

5 A. Yes. I would say --

6 THE WITNESS: Oh, sorry, Ben. Were you  
 7 finished?

8 MR. ROESCH: Go ahead.

9 A. I would say that the February 9th letter  
 10 conveys the company's coverage position.

11 BY MR. FADDUOL:

12 **Q. But not your coverage analysis, correct?**

13 A. Well, I think that requires, you know, going  
 14 into privileged matters.

15 MR. ROESCH: Objection again, yeah.

16 MR. FADDUOL: Hang on. Hang on. If he  
 17 made a coverage analysis for the purposes of  
 18 communicating that to the McNaes, that's fair for me  
 19 to ask about. If he made a coverage analysis separate  
 20 to the company, then that's fine.

21 BY MR. FADDUOL:

22 **Q. But I just want to be clear --**  
 23 **(Unreportable crosstalk.)**

24 **Q. -- everyone thinks, right?**

25 MR. ROESCH: I think that's a sort of

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1 slight misunderstanding of -- of the process that  
 2 Mr. Mullaly testified to. You know, the -- the first  
 3 step is providing a coverage analysis, legal coverage  
 4 analysis to the company. The company then -- and we  
 5 can confirm this with Mr. Mullaly -- expressed the  
 6 coverage position that it wished to convey to  
 7 Mr. McNae, and Mr. Mullaly then drafted that --  
 8 drafted that letter.

9 BY MR. FADDUOL:

10 **Q. Sir, what were you asked to do in drafting**  
 11 **the February 9th letter?**

12 A. I was asked to draft a response to, if I  
 13 recall, a communication from your office demanding  
 14 coverage under Mr. McNae's policy.

15 **Q. And what were you asked to communicate to the**  
 16 **McNaes in that letter?**

17 A. What is contained in the letter.

18 **Q. Were you ever asked to create a coverage**  
 19 **opinion in response to the claims made by the McNaes**  
 20 **to ARAG?**

21 A. Was I asked to --

22 THE WITNESS: Sorry. Go ahead.

23 MR. ROESCH: Objection. You can answer to  
 24 the extent of the existence of a -- of a request, but  
 25 not the -- the substance thereof, which would be

12 (Pages 45 to 48)

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1 attorney-client privilege.

2 A. Yes. Yeah. I -- I was asked to, you know,  
3 render a legal coverage opinion.

4 BY MR. FADDUOL:

5 **Q. Other than Mr. Gomez, did you interact with**  
6 **any other folks outside of ARAG for the purposes of**  
7 **assisting the McNaes in getting legal representation?**

8 A. No.

9 **Q. Have you spoken about this matter to anyone**  
10 **other than ARAG employees, folks at your firm, or**  
11 **Mr. Gomez?**

12 A. No. Well, with the exception of Ben and his  
13 firm.

14 **Q. Fair enough.**

15 MR. ROESCH: I assumed that was kind of  
16 encompassed.

17 THE WITNESS: Yeah.

18 MR. FADDUOL: Okay, sir. I think that's  
19 all the questions I have for you, I guess, pending if  
20 Ben has any questions.

21 MR. ROESCH: I do not.

22 MR. FADDUOL: Okay.

23 THE WITNESS: Well, thank you, David.

24 THE COURT REPORTER: Mr. Fadduol, would  
25 you like to order the transcript?

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1 MR. FADDUOL: Yes.

2 THE COURT REPORTER: Mr. Roesch, would you  
3 like a copy?

4 MR. ROESCH: Yes.

5 (Videoconference deposition

6 concluded at 10:16 a.m.)

7 (Reading and signing was not

8 requested pursuant to FRCP Rule

9 30(e).)

10  
11 -o0o-

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1 CERTIFICATE

2  
3 STATE OF WASHINGTON )

) ss.

4 COUNTY OF PIERCE )

5  
6  
7 I, ANITA W. SELF, a Certified Court Reporter in  
8 and for the State of Washington, do hereby certify  
9 that the foregoing transcript is true and accurate to  
10 the best of my knowledge, skill, and ability. Reading  
11 and signing was not requested pursuant to FRCP Rule 30(e).

12 IN WITNESS WHEREOF, I have hereunto set my hand  
13 and seal this 26th day of July 2024.



14  
15  
16  
17 *Anita W. Self*

18 ANITA W. SELF, RPR, CCR #3032  
19  
20  
21  
22  
23  
24  
25

# Exhibit 25

**30(b)(6) Meagen Adams**

**McNae v. ARAG Insurance Company**

**August 16, 2024**



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## McNae v. ARAG Insurance Company

30(b)(6) Meagen Adams

Page 1

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

WILLIAM MCNAE and RONDA MCNAE, )  
husband and wife, )  
Plaintiffs, )  
vs. ) No. 2:24-cv-00211-TL  
ARAG INSURANCE COMPANY, )  
Defendants. )

Videoconference Videotaped 30(b)(6)

Deposition Upon Oral Examination

of

ARAG INSURANCE COMPANY

MEAGEN ADAMS

9:32 a.m.

August 16, 2024

Witness Location: Des Moines, Iowa  
(All participants appeared via videoconference.)

REPORTED BY: Karmen Knudson, RPR, CRR, CCR #1935

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3	Document titled "Participants and Decisionmakers"	109
4	Order Extending Pretrial Deadlines and Continuing Trial	118
5	Email from Meagen Adams dated 11/21/23 ARAG000261	133
6	Letter to William McNae dated December 6, 2023 from ARAG Legal Department ARAG003733 to 3734	136
7	Email to Casey from Legal US dated 12/20/23 ARAG006809	140
8	Letter to William McNae from Jeff LeMay dated January 3, 2024 ARAG003727 to 3731	146
9	Email to William McNae from ARAG Legal dated October 24, 2023	159

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ANN COSIMANO

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1 (Pages 1 to 4)

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30(b)(6) Meagen Adams

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THE VIDEOGRAPHER: We are on the record.  
Today's date is August 16th, 2024. The time now is  
approximately 9:32 a.m. This is a 30(b)(6) deposition  
of ARAG Insurance Company designee Meagen Adams.  
MEAGEN ADAMS, witness herein, having been  
duly sworn by the Certified  
Court Reporter, testified  
under oath as follows:

## EXAMINATION

BY MR. RUIZ:

**Q. Good morning, Ms. Adams. How are you?**

A. I'm good.

**Q. Is anyone in the room with you?**

A. No.

**Q. Okay. I could have sworn I saw you nod at somebody, but it might have been just somebody walking by.****If somebody joins you, will you let me know?**

A. Yes, I would.

**Q. Thanks.****What city do you reside in?**

A. Marshalltown, Iowa.

**Q. Do you have any plans to move from there in the next twelve months?**

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**besides Meagen Adams?**

A. No.

**Q. Have you ever gone by any other name?**

A. Yes.

**Q. A maiden name, maybe? (Crosstalk)**

A. Yes.

**Q. A married name?**

A. Yes.

**Q. Okay. Which name is that?**

A. Previously maiden name Wozny, W-o-z-n-y.

Married name Wilson, W-i-l-s-o-n. Married name  
Phillips, P-h-i-l-l-i-p-s.**Q. You and I have never spoken before; right?**

A. That's correct.

**Q. Have you ever spoken with anyone from my law firm?**

A. Not to my knowledge.

**Q. So as a lawyer in the case, the topics that I'm going to be addressing with you -- this covers a time period of when I wasn't there. And so depositions are the main opportunity that attorneys like me have to obtain admissible testimony about the key facts of a case from people who directly know the facts, and that includes, you know, organizations like ARAG who know the**

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A. No.

**Q. Are you represented by counsel at today's deposition?**

A. Yes.

**Q. Who is that?**

A. Michael and Benjamin.

**Q. Michael?**

A. Mullaly.

**Q. Mullaly?**

A. Mm-hmm.

**Q. And Benjamin --**

A. And Benjamin Roesch.

**Q. Okay. Who will be making objections on your behalf today?**

MR. MULLALY: I will.

A. Michael.

MR. MULLALY: Pardon me.

THE WITNESS: Sorry.

MR. RUIZ: Mr. Mullaly?

MR. MULLALY: Yes. Yes, Isaac.

**Q (By Mr. Ruiz) And I'm assuming you've been assisted by counsel in getting ready for today's deposition?**

A. Yes.

**Q. Ms. Adams, do you go by any other name**

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**facts.****Before I go further, how should I pronounce ARAG? Is it ARAG? ARAG? Something else?**

A. ARAG.

**Q. ARAG. What does ARAG stand for?**

A. It's a part of a much longer German word. So it's truncated for use in North America.

**Q. Do you know that German word?**

A. I do not. I do not speak German.

**Q. Fair.****All right. So -- but back to why we're here. It's important that you not only tell the truth, which I know you know already, but that you also not guess to any of the questions.****Do you agree not to guess?**

A. Yes, I agree to that.

**Q. And if one of my questions doesn't make sense or if it's confusing or misleading, it's my preference that you tell me about your concerns so I can rephrase the question.****Would you please do that?**

A. Yes, I will.

**Q. If I show you a document today and you need more time to read it, let me know so that I can assess how to proceed.**

2 (Pages 5 to 8)

Page 9

1 Would you please do that?

2 A. Yes, I'll do that.

3 Q. If you don't remember information, would you  
4 just tell me that you don't remember instead of guessing  
5 or speculating?

6 A. Yes.

7 Q. Now, this is important. I've only recently  
8 started saying this because I finally -- something  
9 clicked.

10 If I ask you something that seems like an  
11 obvious question, I promise you I'm not trying to be  
12 annoying. There are going to be a few questions that I  
13 ask where I think I know the answer, and I know you know  
14 the answer. It's just that we are required to have  
15 admissible evidence on every little fact, even if it's  
16 something that might seem obvious to you or to me.

17 Do you understand that?

18 A. I do.

19 Q. And if you need a break at all during today's  
20 deposition, just let me know. The rules require that if  
21 there's a question that's out there that's pending, that  
22 you please answer that, but then, you know, it will be  
23 good for the whole group to take breaks anyway. Just  
24 let me know.

25 All right?

Page 10

1 A. Yes.

2 Q. Have you ever had your deposition taken  
3 before?

4 A. Yes.

5 Q. Now -- well, how many times?

6 A. Three.

7 Q. Leaving aside anything that doesn't have to  
8 do with work, professional, how many times have you been  
9 deposed?

10 A. Zero.

11 Q. So this is your first time?

12 A. Maybe I misunderstood the question.

13 Q. This is your first time you've been deposed  
14 in connection with ARAG or insurance or anything like  
15 that?

16 A. Oh. I'm sorry. I have that reversed.

17 Q. Oh, that's okay.

18 A. Yeah, I apologize.

19 Q. No need to apologize. That might fall into  
20 the category of one of my confusing questions, which I  
21 hope I won't have very many of.

22 All three times that you've been deposed have  
23 been for work; is that fair?

24 A. Yes, that's correct.

25 Q. Have any of them been as a Rule 30(b)(6)

Page 11

1 designee?

2 A. Yes.

3 Q. How many of the three?

4 A. Three.

5 Q. When was the last time that you testified as  
6 a Rule 30(b)(6) designee?

7 A. I don't recall.

8 Q. Would it have been in the last year?

9 A. No.

10 Q. Okay. Around, abouts, how long? More than  
11 two or three years?

12 A. More than two to three years, yes.

13 Q. All three of those times that you served as a  
14 corporate designee, have they been for ARAG?

15 A. No.

16 Q. Who else?

17 A. For Grinnell Mutual Reinsurance Company.

18 Q. Of the three, how many of them were for  
19 Grinnell?

20 A. Two.

21 Q. Does Grinnell have anything to do with ARAG?

22 A. No.

23 Q. Was the third one for ARAG?

24 A. Yes.

25 Q. What kind of case was the one that you

Page 12

1 testified in on behalf of ARAG?

2 A. It was a case involving our contract with one  
3 of our network attorneys.

4 Q. Did the network attorney file a lawsuit  
5 against ARAG?

6 A. Yes.

7 Q. Which jurisdiction was that in?

8 A. I don't recall.

9 Q. Was it Washington?

10 A. I'm not certain.

11 Q. What kind of insurance company is Grinnell?

12 A. They are a property and casualty insurer.

13 Q. Did you used to work with them?

14 A. Yes.

15 Q. We'll get into when you worked for who and  
16 what you did for that in a little bit, so I won't jump  
17 ahead.

18 Have you ever testified in a courtroom?

19 A. No.

20 Q. Have you ever testified over Zoom as part of  
21 a trial?

22 A. Yes.

23 Q. Okay. Tell me about that.

24 A. Similar --

25 MR. MULLALY: Object to the form.

3 (Pages 9 to 12)

McNae v. ARAG Insurance Company

30(b)(6) Meagen Adams

Page 13

1 You may answer.  
 2 THE WITNESS: Sorry about that.  
 3 MR. MULLALY: No, it's okay.  
 4 A. Similar to this proceeding, if that's part of  
 5 the trial process.  
 6 **Q (By Mr. Ruiz) So one of those three times**  
 7 **that you testified was over Zoom? Is that what you're**  
 8 **saying?**  
 9 A. Yes.  
 10 **Q. Was that the one for ARAG?**  
 11 A. Yes.  
 12 **Q. What about not in a deposition but sort of**  
 13 **everybody else is in a courtroom, there's a jury**  
 14 **watching, but you are appearing over teleconference?**  
 15 **Anything like that?**  
 16 A. Would you say that again, which...  
 17 **Q. Sure.**  
 18 **Sometimes we have trials nowadays where, you**  
 19 **know, there's a judge and a jury present but the**  
 20 **testimony is over Zoom.**  
 21 **Have you done that?**  
 22 A. Not in a trial.  
 23 **Q. Have you testified in an arbitration?**  
 24 A. No.  
 25 **Q. I know that you did a sworn declaration for**

Page 14

1 **our case when we were, you know, hashing it out over**  
 2 **deposition dates.**  
 3 **Do you remember that?**  
 4 A. Yes.  
 5 **Q. Okay. Have you ever done a declaration for**  
 6 **any other case?**  
 7 A. Yes.  
 8 **Q. Okay. Tell me about that.**  
 9 A. Same --  
 10 MR. MULLALY: Object to form.  
 11 You can answer.  
 12 A. The same declaration that I made for this  
 13 meeting today is similar to the same declaration that I  
 14 made in those other circumstances.  
 15 **Q (By Mr. Ruiz) The declaration that you did**  
 16 **in this case was really about dates and scheduling as**  
 17 **opposed to the substance of the case; is that fair?**  
 18 MR. MULLALY: Object to form.  
 19 You can answer, Meagen.  
 20 **Q (By Mr. Ruiz) I don't want to put words in**  
 21 **your mouth, but is that your understanding generally**  
 22 **what that declaration was about; dates, scheduling,**  
 23 **things like that?**  
 24 MR. MULLALY: Same objection.  
 25 You can answer, Meagen.

Page 15

1 A. Yes.  
 2 **Q (By Mr. Ruiz) In any of the other**  
 3 **declarations that you've done, have they delved into**  
 4 **such things as opposed to scheduling and dates?**  
 5 A. I don't remember.  
 6 **Q. Have you signed any other declarations in our**  
 7 **case besides the one that I've mentioned?**  
 8 A. Not that I recall.  
 9 **Q. Have you ever served as an expert witness in**  
 10 **a case?**  
 11 A. No.  
 12 **Q. Would you give a thumbnail sketch of your**  
 13 **educational background?**  
 14 MR. MULLALY: Object to form.  
 15 You can answer, Meagen.  
 16 THE WITNESS: Sure.  
 17 A. My postsecondary education is completing a  
 18 bachelor's degree.  
 19 **Q (By Mr. Ruiz) Where?**  
 20 A. Central University of Iowa.  
 21 **Q. What city is that in?**  
 22 A. Pella, P-e-l-l-a.  
 23 **Q. What was the major?**  
 24 A. Communications.  
 25 **Q. What year?**

Page 16

1 A. Completed in 1997.  
 2 **Q. And then after that, did you have any formal**  
 3 **education?**  
 4 A. No.  
 5 **Q. Do you hold any professional licenses?**  
 6 A. I do.  
 7 **Q. Which ones?**  
 8 A. CPCU.  
 9 **Q. Any others?**  
 10 A. No.  
 11 **Q. What does CPCU stand for?**  
 12 A. Charter Property Casualty Underwriter.  
 13 **Q. What does the "charter" in Charter Property**  
 14 **Casualty Underwriter stand for?**  
 15 A. I don't know.  
 16 **Q. Me neither. I've wondered that for a long**  
 17 **time.**  
 18 **But property casualty underwriting, that's**  
 19 **referring to specific kinds of insurance products; is**  
 20 **that fair?**  
 21 A. Yes.  
 22 **Q. Is the product that ARAG offers, is that a**  
 23 **property casualty insurance product, based on your**  
 24 **understanding?**  
 25 A. It is not.

4 (Pages 13 to 16)

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MR. MULLALY: Object to the form. It's beyond the scope of the notice.

But you can answer. You did answer.

THE WITNESS: Sorry.

**Q (By Mr. Ruiz) Now, do you hold any other professional licenses?**

A. No.

**Q. An adjuster's license?**

A. No.

**Q. I'm wondering if the CPCU is more of a professional certification as opposed to a license. Do you think it might be more of a certification or --**

MR. MULLALY: Object to the form.

**Q (By Mr. Ruiz) -- Or a credential?**

MR. MULLALY: Pardon me.

**Q (By Mr. Ruiz) Or a credential?**

MR. MULLALY: You can answer, Meagen.

A. I don't know.

**Q (By Mr. Ruiz) Well, let me back up.**

**The CPCU, is that issued by a governmental body?**

A. No.

**Q. It's issued by a private organization; right?**

A. Yes.

**Q. Are there any other credentials or**

Page 19

In 1997, I joined Grinnell Mutual Reinsurance Company. I exited Grinnell Mutual in about 2006 and I joined State Auto Insurance Company. I exited State Auto in 2012 and joined ARAG.

**Q. Have you lived in Iowa this whole time?**

A. Yes.

**Q. Grinnell Mutual Reinsurance Company is in Iowa?**

A. Yes.

**Q. What city?**

A. Grinnell.

**Q. Oh, that's what I thought.**

**And State Auto Insurance Company, is that also in Iowa?**

A. Yes.

**Q. What city?**

A. West Des Moines.

**Q. What about ARAG? Where is that?**

A. Des Moines, Iowa.

**Q. What different positions did you have from 1997 through 2006 when you were working for Grinnell?**

A. I was a claims assistant, I was a claims adjuster, and I was a claims manager.

**Q. Why did you leave?**

A. At that time, I was just ready for change of

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**certifications that you've obtained from professional private organizations?**

A. No.

**Q. Do you have any training as a lawyer?**

A. No.

**Q. Do you have any training in medicine?**

A. No.

**Q. Do you have any training in psychiatry?**

A. No.

**Q. Do you have any training in trauma?**

MR. MULLALY: Object to form.

You can answer, Meagen.

A. No.

**Q (By Mr. Ruiz) Would you please give a thumbnail sketch of your employment history. We've talked about education. Now the question is more about employment.**

MR. MULLALY: Object to form.

You may answer, Meagen.

**Q (By Mr. Ruiz) Let me ask it again. I want to make sure I ask clean, crisp questions, to the extent that I can, Ms. Adams.**

**Would you please give a thumbnail sketch of your employment history.**

A. Yes.

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scenery.

**Q. You mean city or professional?**

A. Both.

**Q. And when you worked at State Auto Insurance Company from 2006 to 2012, what different positions did you hold?**

A. I was a claims supervisor.

**Q. The whole time?**

A. Yes.

**Q. What does a claims supervisor do?**

A. They oversee the activities of the claims adjusters.

**Q. All right. So Grinnell and State Auto Insurance Company, those are both in the property casualty area; is that true?**

A. That's right.

**Q. Why did you leave State Auto?**

A. I needed to move from the management structure at that company to something different.

**Q. Can you say a little bit more on that?**

MR. MULLALY: Object to form.

You can answer, Meagen.

A. Looking for opportunities that had more involvement with the company.

**Q (By Mr. Ruiz) I take it it was your choice**

5 (Pages 17 to 20)



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1 to leave both -- from both Grinnell and State Auto?

2 A. Yes, it was.

3 Q. How did you choose ARAG as your next place of  
4 employment?

5 A. I found ARAG through Palmer, which is a job  
6 placement company.

7 Q. What different positions have you held at  
8 ARAG?

9 A. Claims manager. Currently manager of claims  
10 and case coordination.

11 Q. How long were you a claims manager?

12 A. Six years.

13 Q. In doing the math, you've been the manager of  
14 claims and case coordination for another six years. Is  
15 that right?

16 A. Yes.

17 Q. What does a claims manager do?

18 Let me -- let me back up. Forget that  
19 question. I have to ask these good questions.

20 What are the responsibilities that you had  
21 when you were claims manager at ARAG?

22 A. I would directly oversee the claims  
23 activities for the company and the people performing  
24 them.

25 Q. Were there other claims managers?

Page 23

1 A. ARAG Legal Insurance. I believe that's what  
2 we have.

3 Q. Do you have an employment contract?

4 A. No.

5 Q. You're not looking for another job right now,  
6 are you?

7 A. No.

8 Q. So I'm doing the math. From 1997 to 2024, I  
9 think that's 27 years in the insurance industry. Is  
10 that right?

11 A. Yes.

12 Q. What drew you to the insurance industry?

13 A. I was looking for something immediately out  
14 of college, and I was a resident of Grinnell with a  
15 communications degree, and there was an opening that  
16 fit.

17 Q. And you stuck around for 27 years in the  
18 industry?

19 A. Yes.

20 Q. Do you find it rewarding to work in this  
21 industry?

22 A. Yes.

23 Q. Why?

24 MR. MULLALY: Object that it's beyond the  
25 scope of the notice.

Page 22

1 A. No.

2 Q. You were the claims manager?

3 A. That's right.

4 Q. And what's the difference between a claims  
5 manager and the manager of claims and case coordination?

6 A. It is overseeing an additional department  
7 within the organization.

8 Q. Would that be the department of case  
9 coordination?

10 A. Yes.

11 Q. What's the difference between claims and case  
12 coordination?

13 A. Case coordination functions to find  
14 attorneys. The claims department functions to process  
15 claims for payment.

16 Q. For the last six years, you've been the  
17 manager of both?

18 A. Yes.

19 Q. I should have asked this, but believe it or  
20 not, the answer isn't always what I think it is.

21 Who is your employer?

22 A. ARAG.

23 Q. ARAG. Is there a longer name, like the  
24 official name of your employer, like whoever's on your  
25 paycheck, something like that?

Page 24

1 But you may answer, Meagen.

2 A. Insurance provides help for people when they  
3 need it.

4 Q (By Mr. Ruiz) And it makes you feel good  
5 about what you do?

6 A. Yes.

7 Q. Are you an insured of ARAG?

8 A. Yes.

9 Q. How long have you been an insured with ARAG?

10 A. Twelve years.

11 Q. I'm not going to dive into details here, but  
12 have you ever made a claim with ARAG?

13 A. Yes.

14 Q. Okay. More than one?

15 A. Yes.

16 Q. Who is your supervisor?

17 A. Jeff LeMay.

18 Q. Oh, I recognize that name.

19 What's Mr. LeMay's title?

20 A. He's the director of customer care and  
21 claims.

22 Q. The entire time that you've been at ARAG, has  
23 Mr. LeMay been your supervisor?

24 A. No.

25 Q. When did he start being your supervisor?

6 (Pages 21 to 24)

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1 A. I couldn't say precisely when that was.  
 2 **Q. Has it been over a year?**  
 3 A. Yes.  
 4 **Q. And his name is in the documents we received,**  
 5 **so we know he had some involvement in the stuff we've**  
 6 **got to talk about today. We'll get into that. But has**  
 7 **it been five years that Mr. LeMay has been your**  
 8 **supervisor?**  
 9 MR. MULLALY: Object to form.  
 10 You may answer, Meagen.  
 11 **Q (By Mr. Ruiz) Let me rephrase.**  
 12 **Has it been at least five years that**  
 13 **Mr. LeMay has been your supervisor?**  
 14 A. Yes.  
 15 **Q. Tell me about Mr. LeMay's background. Do you**  
 16 **know what his educational history is?**  
 17 A. I couldn't say.  
 18 **Q. Do you know how long he's been with the**  
 19 **company, ARAG?**  
 20 A. Yes.  
 21 **Q. How long has Mr. LeMay been with ARAG?**  
 22 A. Approximately ten years.  
 23 **Q. Less than you?**  
 24 A. Yes.  
 25 **Q. Has he always held the position that he holds**

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1 now?  
 2 A. No.  
 3 **Q. What position did he have before?**  
 4 A. Director of customer care.  
 5 **Q. All right. So -- but now, he's the director**  
 6 **of customer care and claims; yes?**  
 7 A. Yes.  
 8 **Q. Are those two different departments, customer**  
 9 **care and claims?**  
 10 A. Yes.  
 11 **Q. All right. So now we've got three**  
 12 **departments: customer care, claims, case coordination.**  
 13 **Those are the three; right?**  
 14 A. Yes.  
 15 **Q. We've already talked about claims and case**  
 16 **coordination.**  
 17 **Tell me, what does customer care do? What**  
 18 **department -- what -- withdraw the question?**  
 19 **Would you please describe what customer --**  
 20 **what the customer care department does?**  
 21 A. Customer care speaks with our plan members  
 22 and attorneys to help them initiate their cases with us.  
 23 **Q. Are there employees at ARAG who are parts of**  
 24 **more than one department? Like somebody, could they be**  
 25 **in case coordination and in claims?**

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1 A. No.  
 2 **Q. All right. So each one of these departments**  
 3 **has different team members; is that true?**  
 4 A. Yes.  
 5 **Q. Which department, if any, makes coverage**  
 6 **determinations?**  
 7 A. Customer care begins the coverage  
 8 determination process.  
 9 **Q. Customer care begins the coverage**  
 10 **determination process.**  
 11 **I think you can guess what my next question**  
 12 **is going to be. Who ends it?**  
 13 A. If customer care has all the information they  
 14 need to make that determination, it ends with customer  
 15 care.  
 16 **Q. And if it doesn't?**  
 17 A. Then customer care may ask for assistance  
 18 from others, including the claims department.  
 19 **Q. Besides the claims department, who else may**  
 20 **customer care turn to for assistance with coverage**  
 21 **determination?**  
 22 A. They --  
 23 MR. MULLALY: Object to form.  
 24 You may answer, Meagen. Sorry.  
 25 A. They may turn to our legal team, legal

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1 department.  
 2 **Q (By Mr. Ruiz) Who else?**  
 3 A. I don't know of anyone else.  
 4 **Q. So now we have four. One, customer care**  
 5 **department; two, claims department; three, case**  
 6 **coordination department; and four, legal department.**  
 7 **Is that four different departments at ARAG?**  
 8 A. Yes.  
 9 **Q. Now, there's something I saw in the documents**  
 10 **called SR. Maybe it stands for special referrals.**  
 11 **Do you know what that is?**  
 12 A. Yes.  
 13 MR. MULLALY: Object to form.  
 14 You can answer.  
 15 A. Yes.  
 16 **Q (By Mr. Ruiz) Is that its own department or**  
 17 **part of another department?**  
 18 A. That is just a term that we use internally.  
 19 And that is handled within our case coordination  
 20 department.  
 21 **Q. You know, I might be wrong about this, but I**  
 22 **could have sworn I saw something about an SR Committee.**  
 23 **Is that a thing?**  
 24 MR. MULLALY: I'll object just because I  
 25 think these are questions that pertain more to the topic

7 (Pages 25 to 28)

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1 for Ann.

2 But you may answer, Meagen.

3 MR. RUIZ: All right. And just so whoever  
4 reads that transcript knows, that word appears in  
5 documents that relate specifically to this claim, which  
6 is why I'm asking.

7 **Q. (By Mr. Ruiz) Is there an SR Committee?**

8 A. The phrase "SR Committee" is a bit of an  
9 outdated phrase, but some people may continue to use it.

10 **Q. Why is it outdated?**

11 A. We updated the title to Complex Claims  
12 Committee.

13 **Q. When you say "we," you're talking about ARAG?**

14 A. Yes.

15 **Q. When was the terminology changed from SR  
16 Committee to Complex Claims Committee?**

17 A. I couldn't say a date.

18 **Q. Was it before the McNaes' suit in Florida in  
19 federal court?**

20 A. Yes.

21 **Q. But you would agree with me that there are  
22 documents that still use that SR Committee terminology?**

23 A. Yes.

24 MR. MULLALY: Object to form.

25 You can answer.

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1 **Q. (By Mr. Ruiz) All right. Well, has the  
2 function changed along with the name change from SR  
3 Committee to Complex Case Committee?**

4 A. No.

5 **Q. So it's just a different name for the  
6 committee?**

7 A. Yes.

8 **Q. All right. Well, I won't worry too much  
9 about the exact name for now, but I do want to know  
10 about what it does.**

11 **So what does a -- whether you call it SR  
12 claims -- SR Committee or Complex Claims, what is the  
13 function?**

14 A. The function is to create awareness around  
15 claim exposures and cases that exceed the authority of  
16 our claims specialists for processing.

17 **Q. The first one is creating awareness for  
18 claims exposures.**

19 **Create awareness among who?**

20 A. The committee is comprised of individuals in  
21 different departments in the organization who would  
22 otherwise not have access or routinely be reviewing  
23 claims.

24 **Q. Has this committee been in existence the  
25 entire time that you've been at ARAG?**

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1 A. Yes.

2 **Q. Does this committee make coverage  
3 determinations?**

4 A. No.

5 **Q. And so when it creates awareness, is it just  
6 creating awareness within the committee or does it  
7 create awareness outside of the committee also?**

8 A. Just within the committee.

9 **Q. Who is in the committee?**

10 MR. MULLALY: Object to form.

11 You can answer, Meagen.

12 A. I am in the committee, as well as Jeff LeMay,  
13 Patty Hannum, Kara Hogue, Cassie Pickering, Jennifer  
14 Guthrie, Tad Niemann, Chris Thomas, Jen Beck. And then  
15 the claims specialists who are processing the claims are  
16 also in attendance to present the various cases.

17 **Q. (By Mr. Ruiz) Is anyone from the C-suite on  
18 this committee, like say a CFO?**

19 A. Kara Hogue is the CFO.

20 **Q. What about any other C-suite person, like a  
21 CEO or COO or anything like that?**

22 A. Jen Beck as a vice president.

23 **Q. What is she the vice president of?**

24 A. Customer experience.

25 **Q. Anybody else?**

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1 A. No.

2 **Q. How often -- well, I don't even know.  
3 Does -- are there meetings of the committee?**

4 A. Yes.

5 MR. MULLALY: I'll object that this is  
6 outside the scope of the notice, except to the extent  
7 specifically related to the claim at hand.

8 **Q. (By Mr. Ruiz) You're a member of this  
9 committee, Ms. Adams?**

10 A. Yes.

11 **Q. All right. So how often does this committee  
12 meet?**

13 A. Once a week.

14 **Q. How long does it meet for?**

15 A. It varies.

16 **Q. Could it be an hour?**

17 A. Yes.

18 **Q. Could it be longer?**

19 A. Typically not.

20 **Q. Are these meetings in person or Zoom or  
21 something else?**

22 A. They're held over Teams.

23 **Q. And what comes out of the meeting? What  
24 kinds of -- strike that.**

25 **What kinds of decisions does the committee**

8 (Pages 29 to 32)



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1 make?

2 MR. MULLALY: Object to form.

3 You can answer, Meagen.

4 A. The decisions consist of whether we believe  
5 we may need more information before processing an  
6 invoice for payment.

7 **Q (By Mr. Ruiz) Any other kind of decision?**

8 A. No.

9 **Q. You used the -- you referred to situations  
10 that may exceed authority of the claims specialist.**

11 **Question one on that is: Is claims  
12 specialist what you call an adjuster at ARAG?**

13 A. Yes.

14 **Q. What are the roles and -- strike that.**

15 **What are the responsibilities of a claims  
16 specialist at ARAG?**

17 A. The claims specialist is responsible for  
18 reviewing incoming requests for payment and confirming  
19 whether they should be paid.

20 **Q. Anything else?**

21 A. No.

22 **Q. Well, we know that sometimes they go to these  
23 committee meetings and present on their claims. Is that  
24 fair?**

25 A. Yes.

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1 involved when the claims specialist's authority is  
2 exceeded.

3 **Do you remember saying that?**

4 A. Yes.

5 **Q. Can you elaborate on what that means?**

6 A. Yes.

7 When the cumulative amount of payments for a  
8 particular case exceed \$10,000, the committee is then  
9 made aware of those cases via the committee process.

10 **Q. How is the committee made aware?**

11 A. In the committee meetings.

12 **Q. Is it something that automatically happens or  
13 does a claims specialist have to bring it to the  
14 attention of the committee?**

15 A. Our internal systems route those claims  
16 directly to a queue for the committee's review.

17 **Q. Is that the case even for the kinds of  
18 coverages in the ARAG policy that don't have a maximum  
19 dollar amount?**

20 MR. MULLALY: Object to form.

21 You can answer.

22 A. Could you ask that differently?

23 **Q (By Mr. Ruiz) Sure.**

24 **There are some coverages in the ARAG policy  
25 that don't have a dollar amount, say if you use a**

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1 **Q. Okay. Anything else that they do?**

2 A. There are tasks that are necessary to make  
3 that decision of whether or not a claim should be paid.

4 **Q. Can you outline some of those tasks, please?**

5 A. They would review the request in comparison  
6 to the coverage that's allowed under the benefit plan.  
7 They would request additional information in scenarios  
8 where what we have on file is not adequate.

9 **Q. Anything else?**

10 A. They would review invoices that are provided,  
11 again, for the purpose of confirming that what's in the  
12 invoice is covered or noncovered.

13 **Q. Do the claims specialists make coverage  
14 determinations?**

15 A. Yes.

16 **Q. What kinds of coverage determinations?**

17 A. They would make coverage determinations, for  
18 instance, if a plan member were not active at the time  
19 of the event that occurred that resulted in them  
20 requesting payment.

21 **Q. Any other kind?**

22 A. They would make that coverage determination  
23 if the information contained within the request for  
24 payment indicated that it were a noncovered event.

25 **Q. You said that sometimes the committee gets**

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1 non-network attorney, for example.

2 **Strike that.**

3 **There are some coverages that I've seen in  
4 the policy that do not have a maximum limit if you use a  
5 network attorney. So in a situation involving that, if  
6 the amount of benefit exceeds \$10,000, does that come to  
7 the committee's attention?**

8 MR. MULLALY: Object to form.

9 A. Yes.

10 MR. MULLALY: You can answer, Meagen.

11 A. Yes, it does.

12 **Q (By Mr. Ruiz) So when you're talking about  
13 the claims specialist's authority, is that a reference  
14 to the \$10,000 total?**

15 A. Yes.

16 **Q. And anything that exceeds that has to go  
17 before the committee?**

18 A. Yes.

19 **Q. And does the committee make a decision about  
20 whether to pay in excess of the \$10,000? Or what  
21 happens?**

22 A. The committee provides input whether  
23 additional information is needed prior to processing the  
24 claim.

25 **Q. Is this done in writing?**

9 (Pages 33 to 36)

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1 Let me withdraw that question.

2 Is a written record created of what the  
3 committee does with respect to a given claim?

4 A. Yes.

5 Q. What is that record called?

6 A. I don't recall the title of the entry field.

7 Q. Okay. It's something that's in the  
8 computerized claims system at ARAG?

9 A. Yes.

10 Q. So the next question kind of requires me to  
11 give a little bit of context, so please give me a little  
12 bit of leeway here.

13 Back when you were at the auto insurance  
14 company, you probably were familiar with this idea that  
15 an adjuster gets assigned at the beginning of the claim  
16 and then that adjuster stays assigned to that claim, as  
17 long as it's open, until another adjuster gets assigned.

18 Is that the way it works at ARAG? That for  
19 any insured who has an ongoing legal claim, that it's  
20 the same claims specialist who stays assigned to that,  
21 or does it get assigned to a different claims specialist  
22 potentially every month when the new bill comes in?

23 MR. MULLALY: Object to form.

24 You can answer, Meagen.

25 A. When the invoices arrive, they may be routed

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1 If a mistake gets made on a claim for  
2 somebody who's insured by ARAG, who's the front-line  
3 person who is accountable for that?

4 MR. MULLALY: Object to form.

5 You can answer, Meagen.

6 A. I would say that would be me.

7 Q (By Mr. Ruiz) Every month when the two  
8 attorneys would send in their bills on Will McNae's and  
9 Ronda McNae's cases in the year of 2023, would you  
10 personally be involved in the process of reviewing those  
11 materials and paying them every month?

12 A. No.

13 Q. That would have been the claims specialists?

14 A. Yes.

15 Q. Now, after a claim reaches the \$10,000  
16 threshold and it goes before the committee, does it stay  
17 in front of the committee or it just goes one and done?

18 A. Every subsequent invoice would also go to the  
19 committee.

20 Q. And the claims specialist would go there and  
21 present every subsequent time?

22 A. Yes.

23 Q. What kinds of questions does the committee  
24 ask?

25 (Crosstalk)

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1 to different members of the claims team.

2 Q (By Mr. Ruiz) When there's an ongoing legal  
3 proceeding for which ARAG is providing coverage, does  
4 ARAG assign a person within ARAG to oversee that?

5 A. No.

6 Q. Why not?

7 A. The authorities and processes that we have  
8 in place bring attention to that as the invoices are  
9 received to the group of people that I previously  
10 mentioned.

11 Q. You know how Harry Truman used to have a sign  
12 on his desk that says "The buck stops here"?

13 So for any given claim, is there someone  
14 inside of ARAG where you can say, well, the buck stops  
15 there on this particular claim?

16 MR. MULLALY: Object. It's beyond the scope  
17 of the notice.

18 But you can answer, Meagen.

19 A. I'm not certain what -- what type of buck  
20 stops here you might mean by that.

21 Q (By Mr. Ruiz) Well, let me elaborate, then.  
22 That's a fair point.

23 If this case that I have gets screwed up,  
24 it's going to be on me. Right? The clients are going  
25 to be calling me and I'm going to be the one in trouble.

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1 MR. MULLALY: I'll object --

2 Sorry, Meagen.

3 Object that it's beyond the scope of the  
4 notice, except with regard to the specific claim.

5 But you can answer, Meagen.

6 A. The committee would ask questions around  
7 topics such as an amount in dispute, to ensure that that  
8 information had been gathered, and may also have  
9 questions around updates in the case. We have updated  
10 court dockets, that sort of thing, on file.

11 So mostly around file content.

12 Q (By Mr. Ruiz) Is there somebody at ARAG who  
13 is monitoring the dockets?

14 A. No.

15 MR. MULLALY: Object to form.

16 You can answer, Meagen.

17 Q (By Mr. Ruiz) You said "no." Is that  
18 something that's provided by the attorneys themselves?

19 A. Sometimes.

20 Q. Back to Mr. LeMay. Who is his supervisor?

21 A. Jen Beck.

22 Q. That's the VP of customer experience?

23 A. Yes.

24 Q. And who does Ms. Beck report to?

25 A. David Murray.

10 (Pages 37 to 40)

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1 **Q. I recognize that name. He's the boss; right?**  
 2 MR. MULLALY: Object to form.  
 3 You can answer, Meagen.  
 4 A. He's the president.  
 5 **Q (By Mr. Ruiz) And is Mr. -- is there a CEO?**  
 6 A. That would also be Mr. Murray.  
 7 **Q. Right. So he is the boss.**  
 8 **Let's do a little bit of administration here.**  
 9 **I'll show you today -- I'm going to try to follow these**  
 10 **steps: I will first drop it into the chat, upload it so**  
 11 **that everyone can see, then I will -- I'm doing it now.**  
 12 **Hold on.**  
 13 **Well, hold on.**  
 14 **Then I'll share my screen and then show it to**  
 15 **you and then I'll ask for it to be marked.**  
 16 MR. RUIZ: But because I had to reinstall  
 17 Zoom this morning, I think that we should just take --  
 18 you know what that means on a Mac. I think we should go  
 19 off the record, take our first break of the day, and be  
 20 back in five or ten minutes, depending on what works for  
 21 everyone.  
 22 Can we go off?  
 23 THE VIDEOGRAPHER: Going off the record. The  
 24 time now is approximately 10:23 a.m.  
 25 (Recess 10:23 a.m. to 10:33 a.m.)

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1 THE VIDEOGRAPHER: Back on the record. The  
 2 time now is approximately 10:33 a.m.  
 3 **Q (By Mr. Ruiz) Ms. Adams, the McNaes' claims,**  
 4 **those went before the committee; right?**  
 5 MR. MULLALY: Object to form.  
 6 You can answer, Meagen.  
 7 A. Yes.  
 8 **Q (By Mr. Ruiz) And for the rest of today, if**  
 9 **I say "the committee," can we have an understanding that**  
 10 **I'm talking about what used to be called the SR**  
 11 **Committee and is now called the Complex Claims**  
 12 **Committee?**  
 13 A. Yes.  
 14 **Q. Okay. Is there another committee that has**  
 15 **involvement in the McNaes' claims?**  
 16 A. No.  
 17 **Q. All right. You had mentioned that some of --**  
 18 **one of the potential outcomes of a committee meeting are**  
 19 **like identification of information that is still needed.**  
 20 **Is that fair?**  
 21 A. Yes.  
 22 **Q. Now -- and you're a member of the committee?**  
 23 A. Yes.  
 24 **Q. And you have been the entire time that the**  
 25 **McNaes have had claims; is that fair?**

Page 43

1 A. Yes.  
 2 **Q. Is there any information right now that the**  
 3 **committee is waiting for from the McNaes?**  
 4 A. I don't know, offhand.  
 5 **Q. Okay. Has there been in the past?**  
 6 A. I don't recall on specific claims that were  
 7 presented.  
 8 **Q. Can you see a document on your screen?**  
 9 A. Yes.  
 10 **Q. Do I need to make it bigger so that you can**  
 11 **read the text?**  
 12 A. A little larger would be helpful, yes.  
 13 **Q. Is that better?**  
 14 A. Yes. Thank you.  
 15 MR. RUIZ: Please mark this Exhibit 1.  
 16 (Exhibit No. 1 introduced.)  
 17 **Q (By Mr. Ruiz) If we go down, do you see how**  
 18 **we've highlighted your name yellow?**  
 19 A. Yes.  
 20 **Q. And then there's another designee,**  
 21 **Ms. Cosimano, who will be here Monday. Right?**  
 22 A. Yes.  
 23 **Q. We've highlighted her name lilac or purple.**  
 24 **Do you see that?**  
 25 A. Yes.

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1 **Q. Now, if we go down, Shannon from my office**  
 2 **has helpfully highlighted the topics that you've been**  
 3 **identified on in yellow. I'm going to go ahead and show**  
 4 **you those to make sure -- as a quality check. You let**  
 5 **me know if we've gotten any of this wrong.**  
 6 **Let me know if I can go down further.**  
 7 A. Sure. Go ahead.  
 8 Okay.  
 9 Okay.  
 10 Okay.  
 11 Okay.  
 12 **Q. All right. Is there anything that we've**  
 13 **gotten wrong in the highlighting?**  
 14 A. No, I don't believe so.  
 15 **Q. That's Exhibit 1. It's always helpful for**  
 16 **whoever reads this transcript to know the exact topics**  
 17 **that you've been designated to speak on.**  
 18 **Did you bring any documents with you for**  
 19 **production today?**  
 20 A. Into this meeting?  
 21 **Q. Yes.**  
 22 A. No.  
 23 **Q. What's your understanding of what your**  
 24 **responsibilities are as a Rule 30(b)(6) designee?**  
 25 A. To provide --

11 (Pages 41 to 44)

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MR. MULLALY: Object. It calls for a legal conclusion.

But you can answer, Meagen.

A. To provide answers to the topics that have been presented that need to be discussed.

**Q (By Mr. Ruiz) Answers on behalf of...?**

A. On behalf of ARAG.

**Q. And you're here as a corporation designee; true?**

A. Yes.

**Q. And just so we're real clear, unless I say otherwise, all of my questions are asking for the -- for the organization's testimony.**

**Do you understand?**

A. Yes.

**Q. So if I say the word "you" in one of my questions, from here on out, I'm talking about the organization, not about you as a human being.**

**Understood?**

A. Yes.

**Q. So if I have a question that's directly addressed to you as a human being -- that can happen -- I'm going to do my best to make that clear.**

**So, for example, I might say: Were you, Ms. Adams, present at such and such meeting? And I'm**

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**Q. Okay. And Mr. Roesch, is he an employee of ARAG?**

A. No.

**Q. All right. Who does he -- who is his employer?**

A. I don't recall the name of the firm.

**Q. Okay. So for the specific purpose of getting ready for today's deposition, did you speak with any other persons besides the two attorneys?**

A. I did speak with Ann Cosimano.

**Q. All right. You had mentioned her.**

**When did you speak with Ms. Cosimano?**

A. We spoke in a meeting with Mr. Mullaly and Mr. Roesch yesterday, the 15th of August, as well as -- I believe it was Tuesday of this week.

**Q. The 13th?**

A. Yes, the 13th.

**Q. So you were in the same room with Ms. Cosimano and the two attorneys on Tuesday and Thursday of this week; is that fair?**

MR. MULLALY: Object to form. You can answer.

A. We were in a meeting via Teams.

**Q (By Mr. Ruiz) Thanks for the clarification. Let's talk about the Tuesday meeting. How**

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**asking for your individual testimony.**

**That's an example. Do you understand?**

A. Yes.

**Q. And if the organization does not know the answer to the question or if you as a designee are not prepared to answer the question, will you just tell me?**

A. Yes.

**Q. Would you describe generally what you did to prepare to be the designee today?**

A. Yes.

I reviewed documents and met with Mr. Mullaly and Mr. Roesch.

**Q. Anything else?**

A. No.

**Q. Whatever you do, don't infer from any of my questions that I'm asking you to disclose any legal advice that your attorneys have given you.**

**If I want to get that information, I promise I would ask directly, make it really clear what I'm doing, but I don't think I'm going to.**

**Is that understood?**

A. Yes.

**Q. So both of the people you identified, those are lawyers; right?**

A. Yes.

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**long did that last?**

A. Approximately an hour and a half.

**Q. How long did the Thursday meeting last?**

A. Oh, approximately an hour.

**Q. Besides speaking with Ms. Cosimano on Tuesday and Thursday in the presence of your two attorneys, did you speak with any other persons for the specific purpose of preparing you for today's deposition?**

A. I did, now that you mention. I spoke with Teresa Hoisington.

**Q. Why don't we get out everybody you've spoken to for the specific purpose of preparing for today's deposition.**

**We've got Ms. Cosimano, Ms. Hoisington. Who else?**

A. That's it.

**Q. All right. Ms. Hoisington, when did you have this communication with her?**

A. I spoke with her on Wednesday, August 14th.

**Q. How long did you speak with her?**

A. Approximately ten minutes.

**Q. Was this in person?**

A. No.

**Q. How did it happen?**

A. Via Teams.

12 (Pages 45 to 48)

Page 49

1 **Q. All right. So let's go back to the two times**  
 2 **you were in the meetings with Ms. Cosimano.**  
 3 **Did Ms. Cosimano provide you information that**  
 4 **you'll be using today?**

5 MR. MULLALY: Objection.

6 I just would like -- I know you made this  
 7 clear what you are and aren't looking for, obviously,  
 8 but I'd just like to put on the record, Meagen, you  
 9 know, you can respond to the extent it doesn't require  
 10 you to reveal any attorney-client privilege or work  
 11 product material.

12 **Q (By Mr. Ruiz) Ms. Cosimano -- is she an**  
 13 **attorney?**

14 A. Yes.

15 **Q. All right. Is she your attorney for this**  
 16 **case?**

17 A. No.

18 **Q. Ms. Cosimano did have direct involvement in**  
 19 **the handling of the McNae claims; correct?**

20 A. Yes.

21 **Q. And she's been identified as the other**  
 22 **corporate designee who will be testifying Monday; right?**

23 A. Yes.

24 **Q. Let me ask you a yes-or-no question: Did**  
 25 **Ms. Cosimano provide you facts relating to the testimony**

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1 **you'll have today?**

2 A. Yes.

3 **Q. All right. Now tell me all the facts she**  
 4 **provided you.**

5 A. She was able to tell me about a discussion  
 6 that took place for which I was not present.

7 **Q. Continue.**

8 A. And that concerned the communication to the  
 9 McNaes regarding the contracts that were established  
 10 with the non-network attorneys that had been working on  
 11 those cases.

12 **Q. Continue.**

13 A. We also had some discussion about --  
 14 actually, it was Mr. Mullaly's letter that had been sent  
 15 regarding the cases here.

16 I need to think if there was anything else.

17 **Q. All right. Take your time. I want to make**  
 18 **sure I get it all.**

19 A. She helped me understand that timeline of  
 20 events around the generation of the communication and  
 21 some of the reasoning around the termination decision.

22 **Q. Any -- anything else?**

23 MR. MULLALY: Object to form.

24 You can answer, Meagen.

25 A. I feel like that represents what we

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1 discussed.

2 **Q (By Mr. Ruiz) Let's go back to the**  
 3 **beginning, then.**

4 You know what? Before we do that, we've  
 5 got -- I've got these -- you've given me topics here,  
 6 but before that, let's talk about your conversation with  
 7 Ms. Hoisington.

8 **Do you remember that, you mentioned that?**

9 A. Yes, I remember.

10 **Q. Okay. Good.**

11 **And that was a ten-minute Teams**  
 12 **communication?**

13 A. Yes.

14 **Q. Was that one of those where you can see each**  
 15 **other's faces or was it a chat?**

16 A. It was a video call.

17 **Q. And did you receive any facts from**  
 18 **Ms. Hoisington that helped you prepare for today?**

19 A. Yes.

20 **Q. What were those facts?**

21 A. Teresa helped to clarify for me the efforts  
 22 that were made in attempting to locate representation  
 23 for the McNaes.

24 **Q. Before or after termination?**

25 MR. MULLALY: Object to form.

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1 You can answer.

2 A. Before.

3 **Q (By Mr. Ruiz) All right. So before**  
 4 **Ms. Fotiu-Wojtowicz and Casey -- Ms. Casey were**  
 5 **terminated, there were efforts to find alternate**  
 6 **representation?**

7 MR. MULLALY: Object to form.

8 You can answer, Meagen.

9 A. The efforts I am speaking Teresa -- to Teresa  
 10 about were the initial efforts when the McNaes contacted  
 11 ARAG.

12 **Q (By Mr. Ruiz) All right. At the beginning**  
 13 **of the claim?**

14 A. Yes.

15 **Q. Anything else that you spoke with**  
 16 **Ms. Hoisington about?**

17 A. No. That is all.

18 **Q. So let's go back to the facts you received**  
 19 **from Ms. Cosimano.**

20 **First, you said that she was able to share**  
 21 **information regarding a discussion that had occurred**  
 22 **outside of your presence.**

23 **Elaborate what that discussion was about.**

24 MR. MULLALY: Object to form.

25 And I'll just remind you, Meagen, please

13 (Pages 49 to 52)



Page 53

1 testify only to facts. Don't testify to any attorney-  
2 client communication or work product.

3 **Q (By Mr. Ruiz) Yeah, I'm only interested in**  
4 **facts. If your attorney said, hey, that's a great fact**  
5 **or that's a horrible fact, it doesn't matter to me. I**  
6 **only care about information you received from**  
7 **Ms. Cosimano about facts.**

8 **So what facts did Ms. Cosimano provide you**  
9 **about these discussions?**

10 A. The facts provided were that we had  
11 identified some concerns about the direction of the  
12 case with regards to pursuing resolution and had lost  
13 confidence in the attorneys that were performing  
14 services, and that based on those reasons, the  
15 termination letters were generated.

16 MR. MULLALY: And, Isaac, if I may interject.  
17 I don't want to interrupt your questioning.

18 The specifics of, you know, the facts that  
19 Ms. Adams had just described are something that we  
20 intend to present principally through Ann's testimony on  
21 topic 30, if it's helpful to know that.

22 MR. RUIZ: I don't think I have anything to  
23 say in response to that, but let me continue.

24 **Q (By Mr. Ruiz) Identify each and every**  
25 **concern that ARAG had that you just talked about that**

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1 **were mentioned in these discussions.**

2 MR. MULLALY: I object that it's beyond the  
3 scope of the notice topics.

4 But you can answer, Meagen.

5 **Q (By Mr. Ruiz) Well, let me ask you a backup**  
6 **question.**

7 **Does this have anything to do at all with**  
8 **ARAG's handling of the McNae insurance claims?**

9 A. Yes.

10 **Q. All right. Well, then answer the question.**  
11 **Identify each and every concern that ARAG had that were**  
12 **the subject of this discussion.**

13 A. We had concern about the progression towards  
14 resolution of the dispute.

15 We had concern about the need for two  
16 attorneys and the subsequent amount of time that was  
17 spent between the two of them performing very similar  
18 tasks.

19 We had concern about other limitations and  
20 policy language that may apply that would preclude  
21 coverage.

22 **Q. Any other concerns?**

23 A. I don't think so.

24 **Q. Who were the people involved in this**  
25 **discussion that you were not a part of?**

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1 A. I don't know who all of the attendees were.

2 **Q. Don't need all. Just give me the ones you**  
3 **know.**

4 A. Ann Cosimano, David Murray.

5 Those are the one that I know for certain --  
6 with certainty.

7 **Q. You used the word "attend." Was there a**  
8 **meeting?**

9 A. I'm sorry?

10 **Q. I think I heard you in your answers use the**  
11 **word "attend." So was there a meeting that was attended**  
12 **by these folks? What did they attend?**

13 A. I don't know that there was a meeting  
14 scheduled or -- I don't know.

15 **Q. How did the discussion happen? Was it in**  
16 **person? Zoom? Teams? Phone?**

17 A. I don't know.

18 **Q. Have you conducted any kind of investigation**  
19 **since learning about the discussion to figure out all**  
20 **the information that ARAG has about it?**

21 MR. MULLALY: Object to form just, again,  
22 because of the witness by whom will be presenting this.  
23 But you can answer, Meagen.

24 **Q (By Mr. Ruiz) Yeah, you have to answer. I**  
25 **mean --**

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1 MR. MULLALY: Of course.

2 **Q (By Mr. Ruiz) -- it's just a -- it's not --**  
3 **this is just a question about a fact, what did you do.**

4 **Did you conduct any investigation, after**  
5 **learning this from Ms. Cosimano, to find out everything**  
6 **that ARAG has about the discussion?**

7 A. Are you asking that of me as an individual or  
8 as a representative of ARAG?

9 **Q. It's the same question, isn't it?**

10 I mean, like, you're the representative of  
11 ARAG and you know what you did to get ready. I mean,  
12 all these questions have been about what you've done to  
13 get ready. This is just another one.

14 **So in getting ready for today's deposition,**  
15 **did you do any work to find out all of the information**  
16 **that ARAG has about this discussion you learned about**  
17 **from Ms. Cosimano?**

18 A. I did no further investigation into that  
19 discussion.

20 **Q. Did you ask to talk to Mr. Murray about it?**

21 A. No, I did not.

22 **Q. But Mr. Murray was a part of this**  
23 **discussion -- of this discussion?**

24 A. Yes.

25 **Q. Are you sure?**

14 (Pages 53 to 56)

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1 **Is ARAG sure?**  
 2 A. Yes.  
 3 **Q. All right. And what's Mr. Murray's title?**  
 4 A. He's the president and CEO.  
 5 **Q. Does Mr. Murray get involved in everybody's**  
 6 **claims or just this one?**  
 7 MR. MULLALY: Object to form.  
 8 You can answer, Meagen.  
 9 A. Mr. Murray is not routinely involved in  
 10 claims.  
 11 **Q (By Mr. Ruiz) But he was involved in this**  
 12 **one?**  
 13 A. Yes.  
 14 **Q. Now, is there any -- I'm going to jump ahead,**  
 15 **way ahead.**  
 16 **When you were at Grinnell and when you were**  
 17 **at the auto insurance company, there was something**  
 18 **called a claims log.**  
 19 **Do you know what a claims log is?**  
 20 MR. MULLALY: Object to form.  
 21 You can answer, Meagen.  
 22 A. I'm not sure of that terminology.  
 23 **Q (By Mr. Ruiz) A claims diary, claims notes.**  
 24 **Have you ever heard of this?**  
 25 A. I've heard of claims diary and claims notes,

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1 yes.  
 2 **Q. Very good.**  
 3 **And what it is, it's like a running journal,**  
 4 **date, time and activity that happens on a claim.**  
 5 **Is that your understanding of what that is**  
 6 **also?**  
 7 MR. MULLALY: Object to form.  
 8 You can answer.  
 9 A. Yes.  
 10 **Q (By Mr. Ruiz) Right.**  
 11 **Is there such a thing for claims at ARAG?**  
 12 A. Yes.  
 13 **Q. All right. What's it called?**  
 14 A. Claims comments.  
 15 **Q. Is there a computer program that handles**  
 16 **this?**  
 17 A. Yes.  
 18 **Q. And what's the computer program called?**  
 19 A. Pulse.  
 20 **Q. Is that that thing with the red light,**  
 21 **stoplight thing that I've seen in the discovery**  
 22 **production?**  
 23 A. Yes.  
 24 **Q. Okay. But I haven't seen a printout from**  
 25 **start to finish of all of the claims comments. I've**

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1 **seen snippets, like here's one page of it, here's**  
 2 **another page, here's one picture of a stoplight, here's**  
 3 **a green light, here's a -- is there an ability to print**  
 4 **a single claims comment regarding a claim from start to**  
 5 **finish?**  
 6 MR. MULLALY: Object to form.  
 7 You can answer, Meagen.  
 8 A. I don't know.  
 9 **Q (By Mr. Ruiz) Have you ever tried that?**  
 10 A. No.  
 11 **Q. Is there any claims comment that talks about**  
 12 **Mr. Murray's involvement in the McNae claims?**  
 13 A. No, I don't believe so.  
 14 **Q. Now, you didn't talk to Mr. Murray. We're**  
 15 **agreed; right?**  
 16 A. Right.  
 17 MR. MULLALY: Object to form.  
 18 You can answer.  
 19 **Q (By Mr. Ruiz) Right?**  
 20 A. Right.  
 21 **Q. But you are certain that Mr. Murray was**  
 22 **involved in that discussion with Ms. Cosimano; correct?**  
 23 A. Yes.  
 24 **Q. Now, is there any document that records that**  
 25 **discussion having occurred?**

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1 A. No, not to my knowledge.  
 2 **Q. Is there any claims comment that records that**  
 3 **conversation having occurred?**  
 4 A. No.  
 5 **Q. Is there a recording, like an audio recording**  
 6 **or a video recording, of that discussion having**  
 7 **occurred?**  
 8 A. I don't know.  
 9 MR. MULLALY: Object to form.  
 10 You can answer.  
 11 A. I don't know.  
 12 **Q (By Mr. Ruiz) Who initiated the discussion?**  
 13 A. I don't know.  
 14 **Q. Was Mr. Murray involved in any other aspect**  
 15 **of the McNae claim?**  
 16 **Well, let me back up.**  
 17 **Have you asked anybody to find out if**  
 18 **Mr. Murray was involved in any other aspect of the McNae**  
 19 **claim?**  
 20 A. No.  
 21 **Q. You didn't ask Ms. Cosimano?**  
 22 A. No.  
 23 **Q. And you didn't ask Mr. Murray?**  
 24 A. No.  
 25 **Q. And you've never talked to Mr. Murray about**

15 (Pages 57 to 60)



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1 the McNae claim; is that correct?

2 A. That's correct.

3 Q. How often do you talk with Mr. Murray?

4 A. Infrequently.

5 Q. Put a little meat on that. Once a year?

6 Twice a year?

7 A. Once a year.

8 Q. When was the last time that you had a  
9 discussion with Mr. Murray about a specific claim?

10 A. I have not had a discussion with Mr. Murray.

11 Q. Ever?

12 A. No.

13 Q. What was the last -- is there any other claim  
14 that you -- in which Mr. Murray has participated in a  
15 discussion of how ARAG should handle the claim, besides  
16 the McNaes?

17 MR. MULLALY: I object as beyond the scope.

18 You can answer, Meagen.

19 Q (By Mr. Ruiz) My next question will be:  
20 Which one?

21 So I want you to take as much time as you  
22 need to figure out if there is another claim.

23 A. I don't recall.

24 Q. The letters that terminated the attorneys  
25 went out November 20th, 2023. On what day did the

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1 MR. MULLALY: Object to form.

2 You can answer.

3 Q (By Mr. Ruiz) You said that was you; right?

4 MR. MULLALY: Object to form.

5 You can answer.

6 A. Yes.

7 Q (By Mr. Ruiz) All right. So you said  
8 concern number one was lack of progression toward  
9 resolution of the dispute.

10 You remember you said that?

11 A. Yes.

12 Q. What are the facts that ARAG had in November  
13 of 2023 that gave you concerns about the progression  
14 towards resolution of the dispute?

15 MR. MULLALY: I'd like to again object, that  
16 there's a more specific topic by which we'll be  
17 addressing this.

18 But you can answer, Meagen.

19 Q (By Mr. Ruiz) Please answer, ma'am.

20 A. Yes. We had communication from, I believe,  
21 Stephanie Casey that settlement negotiations had been  
22 occurring and that one specific request of the plaintiff  
23 in that case was at issue, and that in those  
24 negotiations, they had asked the plaintiff's counsel to  
25 provide a proposed settlement agreement. And based on

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1 discussion happen?

2 MR. MULLALY: Object to form.

3 You can answer.

4 A. During the week of November 6th.  
5 Q (By Mr. Ruiz) Was it one discussion or did  
6 it occur over multiple conversations/meetings?

7 A. I don't know.

8 Q. Now, are there any emails between  
9 Ms. Cosimano and Mr. Murray or involving those two that  
10 were a part of that discussion?

11 A. I don't know.

12 Q. Did you ask Ms. Cosimano that question?

13 A. No.

14 Q. How long did the discussion last?

15 A. I don't know.

16 Q. When was the first time that you ever heard  
17 of that discussion having occurred?

18 A. August 13th.

19 Q. Three days ago?

20 A. Yes.

21 Q. Yes?

22 Remind me what your title is.

23 A. Manager of claims and case coordination.

24 Q. Remind me who is ultimately responsible on  
25 claims at ARAG to make sure that they're done right.

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1 that, ARAG had moved forward to offer to provide funds  
2 for mediation.

3 Q. Continue.

4 MR. MULLALY: Object to form.

5 You can answer.

6 A. We then subsequently found that the  
7 plaintiff's request for Mrs. McNae to make a public  
8 statement was not something that they were willing to  
9 consider. And that was in -- that was misaligned with  
10 the information that we had previously, and that is what  
11 gave us pause about whether pursuing resolution of that  
12 matter was occurring.

13 Q (By Mr. Ruiz) Anything else?

14 A. No.

15 Q. All right. There are different ways to  
16 resolve a dispute, a litigation. Right? One is to just  
17 win.

18 Do you agree?

19 A. Yes.

20 Q. Hadn't Will McNae won?

21 MR. MULLALY: Object to form.

22 You can answer.

23 Q (By Mr. Ruiz) At the time Ms. Casey was  
24 terminated, hadn't Mr. McNae won?

25 MR. MULLALY: Object to form.

16 (Pages 61 to 64)

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1 You can answer.  
 2 **Q (By Mr. Ruiz) Please do. Answer.**  
 3 A. I understand that his case was dismissed  
 4 without prejudice.  
 5 **Q. All right. So which -- does ARAG agree that**  
 6 **that's a victory?**  
 7 MR. MULLALY: Object to form. Outside the  
 8 scope.  
 9 You can answer.  
 10 A. Yes.  
 11 **Q (By Mr. Ruiz) Now, for there to be a**  
 12 **settlement of litigation, both sides have to agree.**  
 13 **Does ARAG agree with that?**  
 14 A. Yes.  
 15 **Q. So like a case we're talking about right now,**  
 16 **like here, this case, both sides have not agreed to a**  
 17 **settlement. That's why we're here. Right?**  
 18 MR. MULLALY: Object to form.  
 19 You can answer.  
 20 A. Yes.  
 21 **Q (By Mr. Ruiz) Right. And you wouldn't**  
 22 **expect Mr. Mullaly to recommend a settlement that is**  
 23 **against ARAG's interests, would you?**  
 24 MR. MULLALY: Object to form. Solicits  
 25 personal opinion, so outside scope.

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1 You can answer.  
 2 **Q (By Mr. Ruiz) Can you answer that?**  
 3 A. I can answer that. And, no, I would not  
 4 expect Mr. Mullaly to suggest that.  
 5 **Q. All right. And there's nothing in the ARAG**  
 6 **insurance policy that requires your insured to settle**  
 7 **every case no matter what?**  
 8 A. No.  
 9 **Q. No, there isn't; right?**  
 10 A. Correct. No, there is not a requirement.  
 11 **Q. So you've kind of -- you've used a couple of**  
 12 **words without saying the specific things.**  
 13 **You used the word "misaligned," it was a**  
 14 **misalignment. What was misaligned specifically?**  
 15 MR. MULLALY: Object to form.  
 16 You can answer.  
 17 A. The status updates from Stephanie Casey --  
 18 **Q (By Mr. Ruiz) Uh-huh.**  
 19 A. -- discussed the plaintiff's request that  
 20 Mrs. McNae make a public statement.  
 21 In that same status update, it was indicated  
 22 that they were seeking plaintiff's proposal regarding  
 23 that dispute, which gave indication that they were  
 24 interested in what the plaintiff's counsel would propose  
 25 for resolution.

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1 We then find that the public statement was  
 2 not something that Mrs. McNae was interested in doing,  
 3 regardless.  
 4 **Q. And ARAG had a problem with that?**  
 5 MR. MULLALY: Object to form.  
 6 You can answer.  
 7 A. What are you asking if ARAG -- what ARAG had  
 8 a problem with?  
 9 **Q (By Mr. Ruiz) Did ARAG have a problem with**  
 10 **Ms. McNae not being comfortable making the public**  
 11 **statement?**  
 12 A. No.  
 13 **Q. All right. In fact -- okay, well, let me**  
 14 **back up.**  
 15 **You keep talking about the public statement.**  
 16 **What public statement specifically? I want the jury to**  
 17 **hear exactly what ARAG's understanding is of what the**  
 18 **public statement would be.**  
 19 MR. MULLALY: Object to form.  
 20 You can answer.  
 21 A. We understand that the plaintiff -- part of  
 22 the plaintiff's request was that Mrs. McNae make a  
 23 public statement indicating that the plaintiff had not  
 24 committed the assault on Mrs. McNae.  
 25 **Q (By Mr. Ruiz) Ms. McNae was not comfortable**

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1 **making that public statement; right?**  
 2 MR. MULLALY: Object to form.  
 3 You can answer.  
 4 A. Right.  
 5 **Q (By Mr. Ruiz) And nothing in the insurance**  
 6 **policy required her to settle if making such a public**  
 7 **statement was one of the conditions; right?**  
 8 A. Right.  
 9 **Q. All right. So what does the public statement**  
 10 **have to do with anything?**  
 11 MR. MULLALY: Object to form.  
 12 You can answer.  
 13 **Q (By Mr. Ruiz) Did ARAG -- let me withdraw**  
 14 **the question.**  
 15 **Did ARAG have a concern -- well, strike that.**  
 16 **I still don't understand the misalignment.**  
 17 **Misalignment, to me, means that there is -- what -- tell**  
 18 **me A and B. What is A that's misaligned with B? What's**  
 19 **misaligned with what? Just give me the two things.**  
 20 MR. MULLALY: Object to form.  
 21 You can answer.  
 22 A. The status updates from Stephanie Casey  
 23 indicated that there was a willingness to review a  
 24 proposal from plaintiff's counsel in the same status  
 25 update that was sharing with us that that was part of

17 (Pages 65 to 68)

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1 what the plaintiff was going to be requesting.

2 **Q (By Mr. Ruiz) All right.**

3 A. So with that knowledge, Stephanie Casey was  
4 soliciting a resolution, settlement agreement, from  
5 plaintiff's counsel.

6 Conversely, we know that Mrs. McNae had zero  
7 interest in providing that public statement. So --

8 **Q. Is there a -- okay. Is there a problem with**  
9 **Ms. McNae not wanting to make that public statement --**  
10 **that's all I want to know -- from ARAG?**

11 A. No.

12 **Q. Okay. So how is that misaligned with**  
13 **anything?**

14 MR. MULLALY: Object to form.

15 You can answer.

16 **Q (By Mr. Ruiz) I want to make sure I**  
17 **understand --**  
18 **(Crosstalk)**

19 **Q. -- what's -- so on one hand, the plaintiff**  
20 **was requesting a public statement from Ms. McNae. Do**  
21 **you agree with that?**

22 A. Yes.

23 **Q. As a part of a settlement proposal. Do you**  
24 **agree?**

25 A. Yes.

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1 **Q. On the other hand, Ms. McNae was unwilling to**  
2 **give that public statement; correct?**

3 A. Yes.

4 **Q. And ARAG doesn't think there's a problem with**  
5 **that; right?**

6 MR. MULLALY: Object to form.

7 You can answer.

8 A. Right.

9 **Q (By Mr. Ruiz) Should Ms. McNae have made the**  
10 **public statement?**

11 MR. MULLALY: Object. Outside the scope.

12 Solicits personal opinion, so outside the scope.

13 You can answer.

14 MR. RUIZ: I'm asking on behalf of ARAG only.

15 **Q (By Mr. Ruiz) Should Ms. McNae --**

16 MR. MULLALY: It falls outside the scope, but  
17 you can answer.

18 **Q (By Mr. Ruiz) Should Ms. McNae have made the**  
19 **public statement that was being requested by the**  
20 **plaintiff?**

21 A. ARAG doesn't have a position on that.

22 **Q. All right. So is there a misalignment in the**  
23 **plaintiff demanding the public statement and Ms. McNae**  
24 **saying no? Is that the misalignment?**

25 A. No.

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1 **Q. Okay. Then you also mentioned that the**  
2 **plaintiff had requested that Ms. McNae make a -- what is**  
3 **it, a counter settlement offer? Is that right?**

4 MR. MULLALY: Object to form.

5 You can answer.

6 A. No, I don't think I said that.

7 **Q (By Mr. Ruiz) All right. So what's**  
8 **misaligned with -- what's misaligned with Ms. McNae not**  
9 **wanting to make the statement?**

10 A. That piece of what we understood the  
11 plaintiff was requesting in a settlement agreement was  
12 not indicated to be a -- an obstacle in Stephanie  
13 Casey's status updates to us. Therefore, it appeared  
14 that they were willing to consider a settlement  
15 agreement from plaintiff's counsel, which gives the  
16 indication that resolution of the matter was possible.

17 Later, we learned that that would not have  
18 been possible because of this one term within what the  
19 plaintiff was looking for that Mrs. McNae was not in  
20 agreement with.

21 **Q. Okay. I'm just going to be honest, I don't**  
22 **understand what you're saying, but you've said it and**  
23 **then the jury will be able to hear it and so I'm not**  
24 **going to keep asking. All right?**

25 **Is there anything more you have to say about**

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1 **the concern regarding the progression toward resolution**  
2 **of the dispute?**

3 A. No.

4 **Q. Now, the second thing you mentioned was the**  
5 **need for two attorneys and subsequent amount of time**  
6 **spent when it appeared to ARAG that the two of them were**  
7 **performing similar tasks.**

8 **Did I record that correctly as the second**  
9 **concern?**

10 A. Yes.

11 **Q. Okay. Would you explain that concern fully?**

12 MR. MULLALY: Object that this is within the  
13 scope of topic 30 and we've designated someone else to  
14 address topic 30.

15 But you can answer, Meagen.

16 A. Let me get a drink of water real quick.

17 The concern here was regarding the amount of  
18 time necessary or as indicated in the invoices for the  
19 attorneys to collaborate, which was out of the ordinary  
20 for what we typically see on claims. And having two  
21 attorneys performing the same or similar tasks is  
22 equally as unusual.

23 **Q (By Mr. Ruiz) Anything else?**

24 A. No, I don't think so.

25 **Q. Before November 20th, 2023, was there ever a**

18 (Pages 69 to 72)

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1 time that ARAG requested information relating to  
2 settlement efforts that counsel for either of the McNaes  
3 refused to provide?

4 A. No.

5 Q. Before November 20th, 2023, was there ever a  
6 time that ARAG asked to communicate with the McNaes  
7 directly relating to their settlement efforts?

8 A. No.

9 Q. Before November 20th, 2023, was there ever a  
10 time that ARAG asked to speak with Ms. Casey or  
11 Ms. Fotiu-Wojtowicz to discuss settlement efforts?

12 A. No.

13 Q. Before November 20th, 2023, was there ever a  
14 time that ARAG asked to speak with Ms. Casey or  
15 Ms. Fotiu-Wojtowicz to discuss concerns that ARAG had  
16 with the direction of the litigation?

17 A. No.

18 Q. Before November 20th, 2023, did ARAG seek an  
19 opinion from any attorney in Florida to determine  
20 whether the McNaes had made reasonable settlement  
21 efforts?

22 MR. MULLALY: Object on the grounds of  
23 attorney-client privilege and work product.

24 If you are able to answer without divulging  
25 either of those, you can respond, Meagen.

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1 before November 20th, 2023, that either Will or Ronda --  
2 to either Will or Ronda that ARAG says Will or Ronda  
3 should have accepted?

4 MR. MULLALY: Object to form.

5 You can answer.

6 A. We did not make that determination.

7 Q (By Mr. Ruiz) Does the insurance agreement  
8 with ARAG require that the McNaes settle for any price,  
9 whatever Mr. Fitzgerald wanted?

10 A. No.

11 Q. Isn't it true that Ms. Casey was successful  
12 in motion practice against the claims brought by  
13 Mr. Fitzgerald?

14 MR. MULLALY: Object to form.

15 You can answer.

16 A. Yes.

17 Q (By Mr. Ruiz) And isn't it true that  
18 Mr. Fitzgerald's claims against Mr. McNae had been  
19 dismissed by November 20th, 2023?

20 A. I don't recall the date.

21 Q. You recall that they were dismissed, though,  
22 don't you?

23 A. Yes, I do.

24 Q. That's one way to resolve the litigation,  
25 isn't it?

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1 MR. RUIZ: Hold on. This is a yes-or-no  
2 question. It's a fact. And if something is privileged,  
3 we're entitled to know the communication exists.

4 Q (By Mr. Ruiz) And so you do have to answer  
5 this question. Just answer with a "yes" or "no."

6 Before November 20th, 2023, did ARAG seek an  
7 opinion from any attorney in Florida to determine  
8 whether the McNaes had made reasonable settlement  
9 efforts?

10 MR. MULLALY: Object.

11 You can respond "yes" or "no," Meagen.

12 A. No.

13 Q (By Mr. Ruiz) Before November 20th, 2023,  
14 did ARAG seek an opinion from any attorney in Florida to  
15 determine whether Ms. Casey and Ms. Fotiu-Wojtowicz were  
16 unreasonably duplicating work?

17 MR. MULLALY: Same objection.

18 But you can respond "yes" or "no," Meagen.

19 A. No.

20 Q (By Mr. Ruiz) Does ARAG agree that for a  
21 settlement of litigation to occur, both sides of the  
22 litigation have to be willing to settle the specific  
23 terms?

24 A. Yes.

25 Q. What settlement offer did Mr. Fitzgerald make

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1 MR. MULLALY: Object to form.

2 You can answer.

3 A. Yes.

4 Q (By Mr. Ruiz) Does ARAG agree, then, that  
5 being successful in motion practice -- in essence,  
6 defeating claims filed by Mr. Fitzgerald -- is one kind  
7 of reasonable effort to resolve claims?

8 MR. MULLALY: Object to form.

9 You can answer.

10 A. Yes.

11 Q (By Mr. Ruiz) What motions does ARAG say  
12 that counsel for either of the McNaes should have filed  
13 against Mr. Fitzgerald that they failed to file?

14 A. We don't provide that direction.

15 Q. Well, I know you didn't provide that  
16 direction, but does ARAG have a belief that there was a  
17 motion that either -- that counsel for either of the  
18 McNaes should have filed against Mr. Fitzgerald but that  
19 they failed to do?

20 A. No, none.

21 Q. What specific settlement offer does ARAG say  
22 that counsel for either of the McNaes should have  
23 offered to Mr. Fitzgerald that they failed to offer?

24 MR. MULLALY: I object. This question and  
25 the previous one are directly within the scope of topic

19 (Pages 73 to 76)



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1 30.

2 You can answer, though, Meagen.

3 MR. RUIZ: Okay. Are you saying that this  
4 is -- this is within the scope of topic 30, Mr. Mullaly?5 MR. MULLALY: Yes. I think you're asking for  
6 criticisms of the McNaes' defense counsel below and  
7 that's the subject of topic 30.8 MR. RUIZ: Well, I think it's also relates to  
9 the handling of a claim.10 MR. MULLALY: It may have, but topic 30 is  
11 much more specific and we've informed you that we intend  
12 to provide this evidence to topic 30.13 But, nevertheless, I mean, the answer won't  
14 bind the company, in our view, but you can answer,  
15 Meagen.

16 MR. RUIZ: In my view, it will.

17 **Q (By Mr. Ruiz) Ms. Adams, what specific**  
18 **settlement offer does ARAG say counsel for either of the**  
19 **McNaes should have offered to Mr. Fitzgerald that they**  
20 **failed to offer?**

21 A. None.

22 **Q. The third concern that you mentioned, the**  
23 **subject of the discussion between Ms. Cosimano and**  
24 **Mr. Murray, was a concern about other limitations in**  
25 **policy language that may apply that would preclude**

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1 coverage.

2 **Tell me everything you have about that.**

3 MR. MULLALY: Object to form.

4 You can answer.

5 A. We've already talked about the reasonable  
6 pursuit of resolution, which is one of them.7 We also have potential coverage limitation  
8 due to the case involving personal injury, which is  
9 excluded.10 We also have the issue of employment matters,  
11 which is specific to Mr. McNae.12 I feel like that is representative of the  
13 coverage limitations that could apply.14 **Q (By Mr. Ruiz) I want you to make sure you**  
15 **get them all.**16 **You've mentioned -- you mentioned three. Are**  
17 **there any others?**

18 A. No.

19 **Q. Are any of these three potential limitations**  
20 **identified in the termination letters that went out on**  
21 **November 20th, 2023?**

22 MR. MULLALY: Objection to form.

23 You can respond.

24 A. Is it possible for me to see that letter  
25 again?

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1 **Q (By Mr. Ruiz) It is possible. And we'll**  
2 **come back to it.**3 **I mean, I know the answer and the document**  
4 **will speak for itself.**5 **Any other limitations or exclusions?**

6 A. No.

7 **Q. Now, did Ms. Cosimano tell that you these**  
8 **were discussed in that meeting with Mr. Murray?**9 MR. MULLALY: Object to the extent it  
10 solicits attorney-client communication and work product.11 But you can testify to facts surrounding the  
12 situation that Ms. Cosimano conveyed to you.

13 MR. RUIZ: This is a yes-or-no question.

14 **Q (By Mr. Ruiz) Did Ms. Cosimano specifically**  
15 **tell you that these three things, these limitations,**  
16 **were discussed in that discussion with Mr. Murray?**

17 MR. MULLALY: Same objection.

18 You can respond "yes" or "no."

19 A. I don't know. I know that these were the  
20 output of that conversation.21 **Q (By Mr. Ruiz) What do you mean, "the**  
22 **output"? What output?**23 A. That these were the concerns that were  
24 identified.25 **Q. By who?**

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1 A. From that conversation.

2 **Q. Okay. I thought you said there wasn't**  
3 **anything in writing recording that the discussion**  
4 **happened. Did I get that wrong?**

5 A. No, you --

6 MR. MULLALY: Object to form.

7 You can answer.

8 A. No, you're correct.

9 **Q (By Mr. Ruiz) All right. So what output**  
10 **happened? Was it just something that -- marching orders**  
11 **from Ms. Cosimano or something else? What was the**  
12 **output?**

13 MR. MULLALY: Object to form.

14 You can answer.

15 A. I'm just making sure that I understand what's  
16 being asked, but...17 **Q (By Mr. Ruiz) The discussion happened and**  
18 **then there was output. Is this output that you're**  
19 **talking about documents, instructions, or is it just**  
20 **somebody's understanding in their mind?**21 A. No. The output is the termination of the  
22 non-network attorneys.23 **Q. Okay. Any other output from that meeting,**  
24 **that discussion?**

25 A. No.

20 (Pages 77 to 80)

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1 Q. All right. But I'm -- just take my word for  
2 it. I'll represent to you that those terminations do  
3 not mention these limitations or exclusions.

4 I'll show you later. You don't have to take  
5 my word for it, but just for now, I want you to assume  
6 I'm right.

7 Did Ms. Cosimano tell you as a matter of fact  
8 that she discussed these limitations and exclusions with  
9 Mr. Murray in that discussion?

10 MR. MULLALY: Object to form.

11 You can respond "yes" or "no" but don't  
12 respond in a way that reveals any privileged  
13 communications.

14 A. No.

15 Q (By Mr. Ruiz) No, she did not tell you.  
16 Right?

17 A. Right.

18 Q. What about the piece of two attorneys  
19 allegedly doing duplicative work? Did Ms. Cosimano tell  
20 you that that was discussed with Mr. Murray, yes or no?

21 MR. MULLALY: Same objection.

22 You can respond "yes" or "no."

23 A. No. I don't know. I don't recall that being  
24 specifically stated in that -- in the way that you're  
25 asking.

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1 MR. MULLALY: Same objection.

2 Q (By Mr. Ruiz) All right. So she didn't tell  
3 you about that and she didn't tell you about the need  
4 for two attorneys doing duplicative work and she didn't  
5 tell you about the other limitations or policy language.

6 Let me back up, then. I feel like I might  
7 have just wasted a bunch of time.

8 What did Ms. Cosimano tell you was the  
9 substance of the conversation, that discussion she had  
10 with Mr. Murray?

11 And don't fill in the gaps. I only want to  
12 know exactly what she told you.

13 MR. MULLALY: If the substance of what she  
14 told you is attorney-client privilege or work product,  
15 please don't respond. But, otherwise, you can answer  
16 the question.

17 Q (By Mr. Ruiz) Ms. Adams, I only want facts.  
18 What are the specific facts that Ms. Cosimano told you  
19 regarding what she discussed with Mr. Murray?

20 MR. MULLALY: Same objection.

21 You can respond.

22 A. The specifics of that conversation and the  
23 topics that were discussed specifically with Mr. Murray  
24 were not part of what Ann shared with me.

25 Q (By Mr. Ruiz) All right. Well, did she

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1 Q (By Mr. Ruiz) Let's go back to the  
2 beginning. And maybe it's a good time to check in.

3 Do you remember we agreed at the beginning no  
4 assuming, no guessing, no speculating? Right?

5 A. Yep, I do.

6 Q. And you weren't -- you personally, Ms. Adams,  
7 were not a part of that discussion; correct?

8 A. Correct.

9 Q. And so please don't fill in the gaps and  
10 assume what might have been talked about in that  
11 discussion.

12 Do you understand?

13 A. Yes.

14 Q. This whole conversation has been about what  
15 Ms. Cosimano told you.

16 Now, did she tell you about the concern  
17 regarding the progression toward resolution of the  
18 dispute?

19 A. Did she --  
20 (Crosstalk)

21 MR. MULLALY: Object to form.

22 Q (By Mr. Ruiz) Did Ms. Cosimano tell that you  
23 she discussed with Mr. Murray the concern relating to  
24 progression toward resolution of the dispute?

25 A. No.

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1 share any facts besides letting you know that a  
2 discussion happened?

3 A. No.

4 Q. Did she share any facts about anything  
5 relating to the McNae claims during those two meetings  
6 with the attorneys this week? Did she share any facts  
7 besides the fact that this discussion happened?

8 MR. MULLALY: Again, objection on attorney-  
9 client and work product grounds.

10 But if you can respond, stating facts without  
11 invading those things, please answer.

12 A. Yes.

13 Q (By Mr. Ruiz) Tell me.

14 MR. MULLALY: Same objection and same  
15 instruction.

16 But you can respond.

17 A. She shared with me details around the  
18 concerns that had been identified and some of the  
19 timeline of events that had occurred, since I was not  
20 present for some of those events.

21 Q (By Mr. Ruiz) Can you be any more specific  
22 than that?

23 MR. MULLALY: Object to form.

24 You can respond.

25 A. The conversation that took place that I was

21 (Pages 81 to 84)

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1 not present for is what she shared with me that took  
2 place the week of November 6th, and the concerns that  
3 we've just listed out were shared with me during those  
4 meetings that I had with Ann.

5 **Q (By Mr. Ruiz) Anything else?**

6 MR. MULLALY: Object to form.

7 You can answer.

8 A. No.

9 **Q (By Mr. Ruiz) All right. So let me break it  
10 up into two pieces.**

11 **Ms. Cosimano told you about this discussion  
12 that occurred the week of November 6th. Correct?**

13 A. Yes.

14 **Q. And separate from that, she shared three  
15 concerns that Ms. Cosimano had about the claim?**

16 MR. MULLALY: Object to form.

17 You can answer.

18 A. The concerns were not phrased or specific to  
19 Ann. So they were concerns that were identified and she  
20 shared with me.

21 **Q (By Mr. Ruiz) Who identified the concerns?**

22 A. I don't know.

23 **Q. Did you ask her?**

24 A. No.

25 **Q. Did you ask her when those concerns arose for**

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1 A. Yes.

2 **Q. Have we also covered everything that  
3 Ms. Hoisington shared with you during the ten-minute  
4 Teams call you had with her?**

5 A. Yes.

6 **Q. I'm almost afraid to ask, but besides  
7 Ms. Cosimano and Ms. Hoisington, did you talk to anybody  
8 else in preparation for today's deposition, excluding  
9 the two attorneys?**

10 A. No.

11 **Q. Now, did you send any correspondence to  
12 anybody eliciting information to help you prepare for  
13 today's deposition?**

14 A. No.

15 **Q. You've said you reviewed documents to help  
16 you get ready. Right?**

17 A. Yes.

18 **Q. Which documents did you review?**

19 A. The same documents that were provided by  
20 Attorney Mullaly for this case.

21 **Q. You reviewed documents that you understand  
22 have already been produced to us?**

23 A. Yes, that's right.

24 **Q. And, now, did you go into the ARAG computer  
25 system to look at the claim information there?**

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1 her?

2 MR. MULLALY: Object to form.

3 You can respond.

4 **Q (By Mr. Ruiz) Did Ms. Cosimano tell you when  
5 those concerns came up?**

6 A. No.

7 **Q. And did you tell her -- I mean did you ask  
8 her?**

9 A. No.

10 **Q. Any other concerns that Ms. Cosimano told you  
11 about besides --**

12 MR. MULLALY: Objection.

13 **Q (By Mr. Ruiz) -- besides the three that  
14 you've mentioned?**

15 MR. MULLALY: Same instruction regarding  
16 privilege. You can answer as long as you don't reveal  
17 privileged information.

18 A. No.

19 **Q (By Mr. Ruiz) Have we covered everything  
20 that Ms. --**

21 MR. MULLALY: Objection.

22 MR. RUIZ: Hold on.

23 **Q (By Mr. Ruiz) Have we covered all the facts  
24 that Ms. Cosimano shared with you during these two  
25 meetings?**

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1 A. I did not.

2 **Q. Any other documents you looked at in getting  
3 ready for today?**

4 A. No.

5 **Q. How much time did you spend reviewing  
6 documents to help you get ready for today?**

7 A. I would say eight to ten hours.

8 **Q. And again, these were collected by ARAG's  
9 attorneys?**

10 A. That's right.

11 MR. RUIZ: Can we go off the record?

12 THE VIDEOGRAPHER: Going off the record. The  
13 time now is approximately 11:38 a.m.

14 (Recess 11:38 a.m. to 12:21 p.m.)

15 THE VIDEOGRAPHER: Back on the record. The  
16 time now is approximately 12:21 p.m.

17 **Q (By Mr. Ruiz) Ms. Adams, this is an exhibit  
18 that I created with the names of some persons or  
19 entities that were involved in the facts, based on my  
20 review of the documents. And I intend to ask you  
21 questions about whether you recognize these names, as  
22 well as a few follow-up questions.**

23 **So let's start with David R. Murray. He's  
24 the president and CEO of ARAG; is that true?**

25 A. Yes.

22 (Pages 85 to 88)



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30(b)(6) Meagen Adams

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1 **Q. All right. What was the full extent of his**  
 2 **role relating to the McNaes' insurance claims?**  
 3 A. I'm aware of one conversation.  
 4 **Q. Okay. Anything else?**  
 5 A. No.  
 6 **Q. Who is Andrea Morse?**  
 7 A. She was the -- she was previously the chief  
 8 financial officer for ARAG.  
 9 **Q. Is she something else now?**  
 10 A. She has retired.  
 11 **Q. When did she retire?**  
 12 A. I believe around April of 2024.  
 13 **Q. So about four months ago?**  
 14 A. Yes.  
 15 **Q. What was the full extent of her involvement**  
 16 **relating to the McNaes' insurance claims?**  
 17 A. As the CFO, she is in a role where she would  
 18 provide final approval for the financial transaction for  
 19 each individual invoice.  
 20 **Q. Anything else?**  
 21 A. Not that I know of, no.  
 22 **Q. Is Ms. Andrea Morse a part of the committee?**  
 23 A. She used to be when she was employed at ARAG.  
 24 **Q. So Ms. Morse was part of the committee up and**  
 25 **through -- up until April of this year?**

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1 A. Yes.  
 2 **Q. She was at the committee meetings where the**  
 3 **McNae claim was discussed, then?**  
 4 A. She was part of the invitee group to that,  
 5 yes.  
 6 **Q. What about Mr. Murray? Is he a part of the**  
 7 **committee?**  
 8 A. No.  
 9 **Q. Next name is Ann Cosimano. Who is Ann**  
 10 **Cosimano?**  
 11 A. General counsel.  
 12 **Q. How long has she been general counsel?**  
 13 A. I don't know.  
 14 **Q. What was the extent of Ms. Cosimano's**  
 15 **involvement with the McNaes' insurance claim?**  
 16 A. She had conversation with David. And part  
 17 that -- just making sure I have the timeline correct in  
 18 my mind.  
 19 I know that she reviewed status updates and  
 20 bills that were received on the McNae claims.  
 21 **Q. Anything else?**  
 22 MR. MULLALY: Object just on attorney-client  
 23 privilege, work product grounds.  
 24 If you can respond without revealing those  
 25 things, please answer, Meagen.

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1 **Q (By Mr. Ruiz) Just listen to my question,**  
 2 **Ms. Adams: What was the extent of Ms. Cosimano's**  
 3 **involvement with the McNaes' insurance claim? That is**  
 4 **the only question for which I want an answer.**  
 5 MR. MULLALY: Same objection, same  
 6 instruction.  
 7 You can answer.  
 8 A. She looked at invoices and provided the  
 9 concerns about potential coverage exclusions.  
 10 **Q (By Mr. Ruiz) This is during the handling of**  
 11 **the claim; correct?**  
 12 A. That would have been around that November  
 13 communication that was issued.  
 14 **Q. Okay. What about before November of 2023?**  
 15 **Did Ms. Cosimano have any involvement with the McNaes'**  
 16 **insurance claim?**  
 17 A. I don't recall that timeline.  
 18 **Q. Isn't it Ms. Cosimano who suggested the**  
 19 **mediation in the summer of 2023?**  
 20 MR. MULLALY: Object to form.  
 21 You can answer.  
 22 A. Yes, it is.  
 23 **Q (By Mr. Ruiz) All right. So what else did**  
 24 **Ms. Cosimano do with respect to the McNae claim?**  
 25 A. She communicated with the McNaes' counsel to

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1 determine if mediation would move this towards  
 2 resolution.  
 3 **Q. Anything else that Ms. Cosimano did with**  
 4 **respect to the McNaes' insurance claims?**  
 5 A. She would have reviewed documentation in  
 6 order to create that communication.  
 7 **Q. Jeff LeMay, he is the director of customer**  
 8 **care and claims; is that right?**  
 9 A. Yes.  
 10 **Q. What's the full extent of his involvement**  
 11 **with the McNaes' insurance claim?**  
 12 A. He is the individual named on some of the  
 13 communications that were sent regarding this case, and  
 14 he is a member of the Complex Claims Committee and one  
 15 of the individuals that would approve claims over that  
 16 \$10,000 threshold that we talked about earlier.  
 17 **Q. Anything else?**  
 18 A. No.  
 19 **Q. Who is Jennifer Beck? What's her title?**  
 20 A. She's a vice president, customer experience.  
 21 **Q. Ms. Beck is a member of the committee?**  
 22 A. She is.  
 23 **Q. Who reports to Ms. Beck?**  
 24 A. Jeff LeMay reports to her, as well as, I  
 25 believe, Lonita McLean, who is in our business

23 (Pages 89 to 92)

Page 93

1 intelligence and data department.

2 **Q. What was the full extent of Ms. Beck's**  
3 **involvement with the McNae insurance claims?**

4 A. She, as a member of the committee, would have  
5 been aware of those and one of the individuals that  
6 would approve claims above that \$10,000 threshold.

7 **Q. Does the committee vote to approve claims**  
8 **above the \$10,000 threshold or just anybody on the**  
9 **committee can make the approval?**

10 A. There is no vote --

11 MR. MULLALY: Objection.

12 **Q (By Mr. Ruiz) Is it consensus?**

13 MR. MULLALY: Object to form.

14 You can answer.

15 A. The claims that are presented are -- we're  
16 just looking for if there are any questions about  
17 documentation that may be needed.

18 **Q (By Mr. Ruiz) For any given claim, who makes**  
19 **the decision about whether the \$10,000 threshold can be**  
20 **exceeded?**

21 A. I'm not sure -- there isn't a person that  
22 makes the decision about that.

23 **Q. So as long as it gets presented to the**  
24 **committee, then the claim examiner, claims specialist,**  
25 **can exceed the \$10,000?**

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1 success of quality reviews that we conduct on our team  
2 members. And this report allows us to understand that  
3 very easily.

4 **Q (By Mr. Ruiz) Are there any financial**  
5 **reports that are produced?**

6 MR. MULLALY: Same objection.

7 You can answer.

8 A. Yes.

9 **Q (By Mr. Ruiz) Give me an example.**

10 MR. MULLALY: Same objection.

11 You can answer.

12 A. I don't have access to those reports, but I'm  
13 aware of their existence.

14 **Q (By Mr. Ruiz) Who is -- who is Cathie Kyle?**

15 A. Cathie is our claims analyst, a member of the  
16 claims team.

17 **Q. So she is in the claims department?**

18 A. Yes.

19 **Q. Who does she report to?**

20 A. Me.

21 **Q. Is there a difference between a claims**  
22 **analyst and a claims specialist?**

23 A. Yes.

24 **Q. What is the difference?**

25 A. Cathie's role does not involve processing

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1 MR. MULLALY: Object to form.

2 You can answer.

3 A. Yes.

4 **Q (By Mr. Ruiz) Did I spell Lonita McLean's**  
5 **name right?**

6 A. Yes.

7 **Q. And she's in the business intelligence and**  
8 **data department?**

9 A. Yes.

10 **Q. What does the business intelligence and data**  
11 **department do?**

12 A. And it may be just business intelligence, so  
13 I apologize for that.

14 They produce reports.

15 **Q. What kinds of reports?**

16 A. Queries and reports that the business needs  
17 to understand the important data points in the company.

18 **Q. Have you ever seen one of these reports?**

19 A. Yes.

20 **Q. Okay. Give me an example of a kind of**  
21 **report. What kind of data?**

22 MR. MULLALY: Object. This is outside of  
23 scope.

24 You can answer, Meagen.

25 A. One report that we use is to calculate the

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1 claims. Her role --

2 (Crosstalk)

3 A. I'm sorry.

4 **Q. I'm sorry. You guessed where I was --**

5 A. I anticipated, and I should have just --

6 (Crosstalk)

7 A. Cathie's role is to gather court records or  
8 other necessary information to help document claim files  
9 when it's necessary and provide recommendations on  
10 coverage.

11 **Q. All right. The reason she's on this list is**  
12 **I saw her name on the documents that have been produced**  
13 **to us.**

14 **What was the full extent of her involvement**  
15 **with the McNaes' insurance claim?**

16 MR. MULLALY: Object to form.

17 You can answer.

18 A. Cathie provided some clarification to Andrea  
19 Morse regarding the nature of the legal matter so that  
20 Andrea could complete her approval and review.

21 **Q (By Mr. Ruiz) Over email?**

22 A. Yes.

23 **Q. So you saw that email that Cathie Kyle sent**  
24 **to Andrea Morse about that?**

25 A. I did.

24 (Pages 93 to 96)

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1 MR. MULLALY: Object to the form.  
 2 You can answer.  
 3 **Q (By Mr. Ruiz) You did?**  
 4 A. I did, yes.  
 5 **Q. Did she have any other involvement with the**  
 6 **McNaes' insurance claims?**  
 7 A. Yes, I would -- yes.  
 8 **Q. Elaborate, please.**  
 9 A. I recall -- well, let's see. If -- one  
 10 second. I have to think way back.  
 11 Cathie and I discussed this case early on, as  
 12 we had not seen a case like it before. So we just  
 13 wanted to collaborate on that and make sure that we were  
 14 both aware of the case.  
 15 **Q. What do you mean by "early on"? Can you give**  
 16 **me a time frame?**  
 17 A. I can't give you an exact time frame. I mean  
 18 shortly -- shortly after the case was presented to ARAG  
 19 from the McNaes initially when they called us to  
 20 inquire.  
 21 **Q. Anything else that Cathie Kyle did on the**  
 22 **McNae claim besides that email to Andrea Morse and then**  
 23 **this conversation she had with you early on?**  
 24 A. No.  
 25 **Q. You are Meagen Adams. You're the manager for**

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1 **case coordination and claims. Is that right?**  
 2 A. Yes.  
 3 **Q. And if you would, describe your full**  
 4 **participation in the McNaes' insurance claims.**  
 5 MR. MULLALY: Object to form.  
 6 You can answer.  
 7 A. As I mentioned, I recall having a  
 8 conversation with Cathie after receipt of the case that  
 9 the McNaes had presented to us.  
 10 As a member of the committee, I was present  
 11 for the individual invoices being shared with that  
 12 group. I would have approved -- I approved invoices  
 13 between \$10,000 and \$15,000.  
 14 **Q (By Mr. Ruiz) Anything else?**  
 15 A. I don't think so.  
 16 **Q. Who is -- who is Jaime Lane?**  
 17 A. Jaime Lane is a senior claims specialist.  
 18 **Q. What is the extent of Jaime Lane's**  
 19 **involvement in the McNaes' insurance claim?**  
 20 A. As a senior claims specialist, reviewing  
 21 invoices and sharing those invoices with the committee.  
 22 **Q. Anything else?**  
 23 A. No.  
 24 **Q. Who is Karissa Banning?**  
 25 A. Karissa is the claims supervisor.

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1 **Q. Does she report to you?**  
 2 A. Yes.  
 3 **Q. What was the extent of Ms. Banning's**  
 4 **involvement with the McNaes' insurance claims?**  
 5 A. I am glad you asked, because Karissa is also  
 6 a member of the committee and I'm now just realizing  
 7 that I didn't mention her previously. So -- so that  
 8 would be her involvement: as a member of the committee,  
 9 seeing the invoices brought to that group.  
 10 **Q. Anything else?**  
 11 A. No.  
 12 **Q. Heather Preston?**  
 13 **(Crosstalk)**  
 14 MR. MULLALY: Sorry to interrupt. When we're  
 15 done going through this chart, may we go off the record  
 16 briefly?  
 17 MR. RUIZ: Sure.  
 18 MR. MULLALY: Thank you.  
 19 **Q (By Mr. Ruiz) Who is Heather Preston?**  
 20 A. She's a senior claims specialist.  
 21 **Q. Does she also report to you?**  
 22 A. No. She reports to Karissa.  
 23 **Q. What was the extent of Ms. Preston's**  
 24 **involvement in the McNae insurance claims?**  
 25 A. As a senior claims specialist, she would

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1 review invoices and present those invoices to the  
 2 committee.  
 3 **Q. Anything else?**  
 4 A. No.  
 5 **Q. Sarah Tharp, who is that?**  
 6 A. Sarah is a senior claims specialist.  
 7 **Q. Who is the extent of Ms. Tharp's involvement**  
 8 **in the McNae insurance claims?**  
 9 A. As a senior claims specialist, she would be  
 10 responsible for reviewing invoices and presenting those  
 11 to the committee.  
 12 **Q. Anything else?**  
 13 A. No.  
 14 **Q. Diane Schmuck, what was Diane's title?**  
 15 A. Diane is a senior claims specialist.  
 16 **Q. Is her involvement the same as Ms. Tharp?**  
 17 A. It is.  
 18 **Q. And Kathy Miller, who is that?**  
 19 A. She is a paralegal.  
 20 **Q. Is she employed by ARAG?**  
 21 A. Yes.  
 22 **Q. What was her involvement in the McNaes'**  
 23 **insurance claim?**  
 24 A. I'm not sure.  
 25 **Q. What about Cassandra Pickering? Is she the**

25 (Pages 97 to 100)

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1 supervisor of customer care?  
 2 A. She is one of the supervisors, yes.  
 3 Q. Who does she report to?  
 4 A. Erica Toomey.  
 5 Q. And what was the extent of Ms. Pickering's  
 6 involvement in the McNaes' insurance claim?  
 7 A. I'm not sure.  
 8 Q. Who is Jan Tyler?  
 9 A. She is a customer care representative.  
 10 Q. Who does she report to?  
 11 A. I'm not sure.  
 12 Q. Do you know Ms. Tyler's involvement with the  
 13 McNaes' insurance claim?  
 14 A. I do not.  
 15 Q. Brittany Gering, she's a customer care  
 16 supervisor?  
 17 A. Yes.  
 18 Q. What was her involvement with the McNaes'  
 19 insurance claim?  
 20 A. I know that she was speaking with the McNaes  
 21 throughout -- she kind of served as a point of contact  
 22 for them. It seemed that many of the phone  
 23 conversations were directed to her when they would have  
 24 inquiries.  
 25 Q. And that's part of her job, to handle phone

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1 A. That describes the extent of her involvement.  
 2 Q. And then we have the Complex Claims  
 3 Committee.  
 4 Now, we've discussed that already; correct?  
 5 A. Yes.  
 6 Q. Oh, here's a little reminder to myself.  
 7 Is there anything else who is not on this  
 8 list who had involvement within ARAG on the McNaes'  
 9 insurance claims, that you know?  
 10 MR. MULLALY: Object to form.  
 11 You can answer.  
 12 A. No, not that I'm aware of.  
 13 MR. RUIZ: Now, please mark this -- what  
 14 exhibit are we on? Is this going to be Exhibit 2?  
 15 MR. MULLALY: Yes.  
 16 MR. RUIZ: Please mark this as Exhibit 2 with  
 17 the changes. I'll upload the changes in a second.  
 18 (Exhibit No. 2 introduced.)  
 19 Q (By Mr. Ruiz) Did any of these people  
 20 ever -- well, let's leave -- let me ask you this first.  
 21 I withdraw the question.  
 22 Did Brittany Gering ever speak with Ronda  
 23 McNae or Will McNae?  
 24 A. Yes.  
 25 Q. Okay. How many times? Do you know?

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1 calls from insureds like that?  
 2 A. Yes.  
 3 Q. Okay. At a certain point, the McNaes were  
 4 told to stop calling Brittany; is that right?  
 5 MR. MULLALY: Object to form.  
 6 You can answer.  
 7 A. Yes, I understand that to be true.  
 8 Q (By Mr. Ruiz) Who made the decision to tell  
 9 the McNaes to stop calling Brittany?  
 10 A. I don't know.  
 11 Q. Who does Ms. Gering report to?  
 12 A. Erica Toomey.  
 13 Q. Who is Teresa -- oh, we know. We already  
 14 covered Teresa Hoisington, didn't we?  
 15 A. We did, yeah.  
 16 Q. Have we covered the extent of her involvement  
 17 with the McNaes' insurance claim?  
 18 A. No.  
 19 Q. Tell me what it was.  
 20 A. She was involved in attempting to connect the  
 21 McNaes with an attorney that could represent them. And  
 22 this was shortly, within days, after the McNaes  
 23 contacted ARAG to request assistance.  
 24 Q. What else did she do on the McNaes' insurance  
 25 claim?

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1 A. I don't know.  
 2 Q. Leaving Brittany Gering aside, did any of the  
 3 people on Exhibit No. 2 ever speak with Ronda McNae or  
 4 Will McNae?  
 5 A. I don't know.  
 6 Q. Did any of the people on Exhibit 2 ever speak  
 7 with Stephanie Casey?  
 8 A. I don't know.  
 9 Q. Did any of the people on Exhibit 2 ever speak  
 10 with Alaina Fotiu-Wojtowicz?  
 11 A. I don't know.  
 12 Q. Now, has anyone on Exhibit 2 ever spoken with  
 13 Richard Gomez?  
 14 A. Yes -- well -- yes.  
 15 Q. Who?  
 16 A. Ann Cosimano.  
 17 Q. Okay. How many times?  
 18 A. I don't know.  
 19 Q. Anyone else?  
 20 A. I don't recall.  
 21 Q. Okay. We'll have Ms. Cosimano here on  
 22 Monday, but do you know what she talked to Mr. Gomez  
 23 about?  
 24 A. Yes.  
 25 Q. What?

26 (Pages 101 to 104)

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1 A. About providing representation services to  
2 the McNaes.

3 **Q. Did anyone on Exhibit 2 ever have**  
4 **communication with anyone at Microsoft relating to**  
5 **either Will McNae or Ronda McNae?**

6 A. Not that I'm aware of, no.

7 **Q. Okay. Now, in getting ready for today's**  
8 **deposition, did you ask anyone that question?**

9 A. No.

10 **Q. And to be clear, the only person on Exhibit 2**  
11 **who you spoke with -- I mean the only two people on**  
12 **Exhibit 2 who you spoke with in preparation for today's**  
13 **deposition are Ann Cosimano and Teresa Hoisington; is**  
14 **that right?**

15 A. Actually, in -- let's see.

16 This list includes Kathy Miller, and I had  
17 failed to recall that she had been in attendance at the  
18 meetings that I had with Mr. Mullaly and Mr. Roesch. So  
19 I would need to update that to include Kathy, so she  
20 should also be included in the people that I spoke with.

21 **Q. Did Kathy Miller provide you any of the facts**  
22 **that you used to prepare for today?**

23 A. Kathy -- Kathy provided confirmation to me  
24 about our internal compliance department and how that  
25 collaborates with the claims department. And that was

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1 **Q. All right. What information did Kathy Miller**  
2 **provide you about how the internal compliance**  
3 **department, I guess, relates to the claims handling side**  
4 **of the company?**

5 MR. MULLALY: Object to form.

6 You can answer, Meagen.

7 A. I'd ask for confirmation that my recollection  
8 of that relationship was correct, in that the compliance  
9 department would provide notification to me if there  
10 were changes relating to claims handling that would need  
11 review or action.

12 **Q (By Mr. Ruiz) Are there any other facts that**  
13 **Ms. Kathy Miller provided to you?**

14 A. She did share the time frames in which  
15 responses are to be provided to insureds specific to the  
16 state of Washington.

17 **Q. And what did she tell you about that?**

18 A. Well, there were different sections regarding  
19 whether the insurer is a group plan versus an individual  
20 plan and those sorts of things. But the standard  
21 appeared to be 20 business days for most  
22 acknowledgments.

23 **Q. Are you able to say which specific -- strike**  
24 **that.**

25 **You're talking about the Washington**

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1 it.

2 **Q. I keep learning about new departments.**  
3 **What's the internal compliance department?**

4 A. That's a group that, specific to my  
5 relationship with -- shares any updates to state  
6 statutes or regulations to any of the departments that  
7 they may partner with so we can make adjustments if  
8 there are changes that are material to our processes and  
9 systems.

10 **Q. What else do they do?**

11 A. I'm not sure of the full range of their  
12 responsibilities beyond that.

13 **Q. Who is in charge of the internal compliance**  
14 **department?**

15 MR. MULLALY: Object. Beyond the scope.

16 You can respond if you know, Meagen.

17 A. That group reports through Ann Cosimano. I  
18 believe.

19 **Q (By Mr. Ruiz) Is the internal compliance**  
20 **department located there in the same place in Iowa as**  
21 **you?**

22 A. Yes.

23 **Q. Did the internal compliance department have**  
24 **any involvement with the McNaes' insurance claim?**

25 A. No.

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1 **Administrative Code provisions; true?**

2 A. Yes.

3 **Q. And did you bring them with you, which**  
4 **specific ones you talked about with Kathy Miller?**

5 A. No.

6 **Q. Are you able to just right now recall which**  
7 **provisions those were?**

8 MR. MULLALY: Object. Out of scope.

9 You can answer, Meagen.

10 A. No.

11 **Q (By Mr. Ruiz) All right. Well, what is it**  
12 **that you remember about what those regulatory**  
13 **requirements are?**

14 MR. MULLALY: Same objection.

15 You can answer.

16 A. The response time that's appropriate when an  
17 insured makes a claim for benefits.

18 **Q (By Mr. Ruiz) Anything else?**

19 MR. MULLALY: Same objection.

20 You can answer.

21 A. There were -- yes. There were pieces --  
22 rather, a list of -- identified as actions that an  
23 insurer should not take regarding denial of a claim.

24 **Q (By Mr. Ruiz) Anything else?**

25 MR. MULLALY: Same objection.

27 (Pages 105 to 108)



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1 You can answer.  
 2 A. No.  
 3 **Q (By Mr. Ruiz) All right. Have we covered**  
 4 **all the facts that Kathy Miller gave you in preparation**  
 5 **for today's deposition?**  
 6 A. Yes.  
 7 MR. RUIZ: I have uploaded the updated  
 8 Exhibit No. 2 into the Zoom. Please use that updated  
 9 version that I typed on on the screen.  
 10 And we can go off the record for a moment.  
 11 MR. MULLALY: Oh, there's no need, Isaac.  
 12 Thank you. I've addressed it.  
 13 (Crosstalk)  
 14 MR. RUIZ: Sorry about that.  
 15 MR. MULLALY: No, no, thank you.  
 16 THE VIDEOGRAPHER: Let me take us off the  
 17 record, please.  
 18 Going off the record. The time now is  
 19 approximately 12:52 p.m.  
 20 (Discussion off the record.)  
 21 THE VIDEOGRAPHER: Back on the record. The  
 22 time now is approximately 12:53 p.m.  
 23 MR. RUIZ: Please mark this Exhibit 3.  
 24 (Exhibit No. 3 introduced.)  
 25 **Q (By Mr. Ruiz) Ms. Adams, I put together this**

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1 **that decision?**  
 2 A. Oh. There would be notes taken by the  
 3 customer care representative that spoke with the McNaes  
 4 and placed on -- on file.  
 5 **Q. Was anyone outside of ARAG consulted on the**  
 6 **decision to accept coverage?**  
 7 MR. MULLALY: Object to form.  
 8 You can answer.  
 9 A. No.  
 10 **Q (By Mr. Ruiz) And do we know who**  
 11 **ultimately -- like is there a specific person we can**  
 12 **point to who made the decision at ARAG to accept**  
 13 **coverage relating to the federal case?**  
 14 MR. MULLALY: Object to form.  
 15 You can answer.  
 16 A. No.  
 17 **Q (By Mr. Ruiz) Was a decision to accept**  
 18 **coverage a mistake?**  
 19 MR. MULLALY: Object to form.  
 20 You can answer.  
 21 A. No.  
 22 **Q (By Mr. Ruiz) Now, did anyone at ARAG**  
 23 **receive negative feedback over the decision to accept**  
 24 **coverage relating to the federal case?**  
 25 MR. MULLALY: Object to form.

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1 **exhibit mainly to keep me organized, but hopefully it**  
 2 **will help us both.**  
 3 I have questions about nine events from  
 4 the -- from the case, and I'm going to ask you about  
 5 each one of them.  
 6 The first event is accepting coverage for  
 7 that federal action. So as you will recall, there was a  
 8 federal action brought. Then there was an amendment to  
 9 the federal action. Then, much later, there was a state  
 10 court action filed against Will McNae.  
 11 Does that -- is that consistent with your  
 12 understanding?  
 13 A. Yes.  
 14 **Q. Okay. So this is just talking about that**  
 15 **federal court action.**  
 16 **Who are the people who were involved in**  
 17 **deciding that ARAG would accept coverage relating to the**  
 18 **federal case?**  
 19 MR. MULLALY: Object to form.  
 20 You can answer, Meagen.  
 21 A. Customer care.  
 22 **Q (By Mr. Ruiz) Is there a specific person in**  
 23 **customer care?**  
 24 A. I don't recall.  
 25 **Q. What documents exist at ARAG that relate to**

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1 You can answer.  
 2 A. No.  
 3 **Q (By Mr. Ruiz) The second event is the**  
 4 **decision by ARAG to agree to entering into an agreement**  
 5 **with Alaina Fotiu-Wojtowicz. And I'll represent to you**  
 6 **that the date of that agreement was July 28, 2022.**  
 7 **Who are all the people who were involved in**  
 8 **deciding that ARAG would enter into that agreement?**  
 9 A. Teresa Hoisington.  
 10 **Q. Anyone else?**  
 11 A. No, I don't think so.  
 12 **Q. What documents exist at ARAG that relate to**  
 13 **that decision?**  
 14 A. The fee agreement itself that was executed  
 15 with this attorney.  
 16 **Q. Anything else?**  
 17 A. I believe there are some notes regarding a  
 18 phone call with customer care that would have been  
 19 documented in the same way as above when the McNaes  
 20 spoke with us about this attorney.  
 21 **Q. Any other documents?**  
 22 A. No.  
 23 **Q. So was anyone outside of ARAG consulted on**  
 24 **the decision to enter into this agreement?**  
 25 A. No.

28 (Pages 109 to 112)

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- 1 **Q. Who at ARAG, what specific person, ultimately**  
 2 **made the decision?**  
 3 A. Teresa Hoisington.  
 4 **Q. Was that decision a mistake?**  
 5 A. No.  
 6 **Q. Did anyone at ARAG receive negative feedback**  
 7 **over making that decision?**  
 8 A. No.  
 9 **Q. Event number three is the decision to agree**  
 10 **to entering agreement with Stephanie Casey. And I'll**  
 11 **represent to you that the date of that was January 12,**  
 12 **2023.**  
 13 **Who are all the people involved in deciding**  
 14 **that ARAG would enter into that agreement?**  
 15 A. Teresa Hoisington.  
 16 **Q. What documents exist at ARAG that relate to**  
 17 **that decision?**  
 18 A. The fee agreement that was executed with this  
 19 attorney, as well as notes taken from customer care.  
 20 **Q. Anything else?**  
 21 A. No, I don't believe so.  
 22 **Q. Was anyone outside of ARAG consulted in this**  
 23 **decision?**  
 24 A. No.  
 25 **Q. And was it Ms. Hoisington who ultimately made**

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- 1 **the decision to enter into this agreement?**  
 2 A. Yes. Yeah.  
 3 **Q. Was that decision a mistake?**  
 4 A. No.  
 5 MR. MULLALY: Object to form.  
 6 You can answer.  
 7 **Q (By Mr. Ruiz) Did anyone at ARAG receive**  
 8 **negative feedback over making that decision?**  
 9 A. No.  
 10 **Q. Now, for events number two and three -- you**  
 11 **see those up on the screen?**  
 12 A. I do.  
 13 **Q. Was the committee involved in making those**  
 14 **decisions?**  
 15 A. No.  
 16 **Q. Was Mr. Murray involved in making those**  
 17 **decisions?**  
 18 A. No.  
 19 **Q. Let's look at number four. This is the**  
 20 **inquiry relating to mediation on or about July 26, 2023.**  
 21 **You're aware of that event; right?**  
 22 A. I am.  
 23 MR. MULLALY: Object to form.  
 24 **Q (By Mr. Ruiz) You said you were?**  
 25 A. Yes, I am aware of that.

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- 1 **Q. So this was an inquiry relating to mediation**  
 2 **on July 26, 2023, which was sent to Ms. Fotiu-Wojtowicz**  
 3 **and Ms. Casey.**  
 4 **Who are all the people involved in deciding**  
 5 **that ARAG would suggest mediation at that time?**  
 6 MR. MULLALY: Object to form.  
 7 You can answer.  
 8 A. Ann Cosimano.  
 9 **Q (By Mr. Ruiz) Anyone else?**  
 10 A. Not that I'm aware of.  
 11 **Q. Was the committee involved?**  
 12 A. No.  
 13 **Q. Was Mr. Murray involved?**  
 14 A. I don't know.  
 15 **Q. What documents exist at ARAG that relate to**  
 16 **the decision to make that inquiry relating to mediation?**  
 17 A. The communication itself is the only document  
 18 I'm aware of.  
 19 **Q. Was anyone outside of ARAG consulted in that**  
 20 **decision?**  
 21 A. Not that I'm aware of.  
 22 **Q. And it was Ms. Cosimano who ultimately made**  
 23 **the decision to have this inquiry relating to mediation?**  
 24 A. I don't know.  
 25 **Q. All right. I think we know that Ms. Cosimano**

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- 1 **sent the letter. Right?**  
 2 A. Yes.  
 3 MR. MULLALY: Object to form.  
 4 You can answer.  
 5 **Q (By Mr. Ruiz) Yes. And -- but we don't know**  
 6 **who made the decision that that letter should be sent.**  
 7 **Is that fair?**  
 8 A. Yes.  
 9 **Q. Was a decision to make the inquiry a mistake?**  
 10 MR. MULLALY: Object to form.  
 11 You can answer.  
 12 A. No.  
 13 **Q (By Mr. Ruiz) And did anyone at ARAG receive**  
 14 **negative feedback over the decision to make that**  
 15 **inquiry?**  
 16 A. No.  
 17 **Q. A mediation did happen; true?**  
 18 A. Yes.  
 19 **Q. Did ARAG attend the mediation?**  
 20 A. Not to my knowledge.  
 21 **Q. Did it ask to attend the mediation?**  
 22 MR. MULLALY: Objection. Outside of the  
 23 scope.  
 24 You can respond.  
 25 A. I don't know.

29 (Pages 113 to 116)



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1 **Q (By Mr. Ruiz) Did ARAG believe it had a**  
2 **right to attend the mediation?**

3 MR. MULLALY: Outside of scope.

4 You can respond.

5 A. I don't know.

6 **Q (By Mr. Ruiz) Did ARAG expect to be invited**  
7 **to the mediation?**

8 MR. MULLALY: Out of scope.

9 You can respond.

10 A. I don't know.

11 **Q (By Mr. Ruiz) Did anyone from ARAG ever**  
12 **communicate with a mediator?**

13 A. I'm -- I don't know.

14 **Q. And I'm talking about before, during, or**  
15 **after the mediation.**

16 **Either before, during, or after the**  
17 **mediation, just to be clear about my question, did**  
18 **anyone from ARAG communicate with a mediator?**

19 A. Not to my knowledge.

20 **Q. Did it ask to?**

21 A. Not that I know of.

22 **Q. Now, did anyone from ARAG ever communicate**  
23 **with Mr. Fitzgerald or either of the plaintiffs who sued**  
24 **the McNaes?**

25 MR. MULLALY: Objection. Out of scope.

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1 A. Yes.

2 **Q. And that's less than a month before November**  
3 **20th, 2023; right?**

4 A. Yes.

5 **Q. The title of this document is "Order**  
6 **Extending Pretrial Deadlines and Continuing Trial." Do**  
7 **you agree?**

8 A. Yes.

9 **Q. Did ARAG have a copy of this document on or**  
10 **before November 20th, 2023?**

11 A. Not that I'm aware of.

12 **Q. Did you personally ever ask to see this**  
13 **document?**

14 A. No.

15 MR. MULLALY: Object to form.

16 **Q (By Mr. Ruiz) Have you ever discussed this**  
17 **document with anyone inside of ARAG?**

18 A. No.

19 **Q. Okay. Do you see at the bottom of this page,**  
20 **it says: Parties shall -- well, let's go up.**

21 **Do you see paragraph 2 of this document?**

22 A. Yes.

23 **Q. It says: Trial is rescheduled to**  
24 **commence during the two-week period beginning Monday,**  
25 **February 12th, 2024, at 9:30 a.m. before Jose E.**

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1 You can answer.

2 A. No.

3 **Q (By Mr. Ruiz) Did anyone from ARAG ever**  
4 **communicate with the attorneys who were representing the**  
5 **plaintiff that sued the McNaes?**

6 MR. MULLALY: Objection. Out of scope.

7 You can answer.

8 A. Not that I'm aware of.

9 MR. RUIZ: Please mark this Exhibit 4.

10 (Exhibit No. 4 introduced.)

11 **Q (By Mr. Ruiz) Have you ever seen this**  
12 **document before? It's okay if you haven't. I just**  
13 **want -- I'm just asking.**

14 A. No, I don't think so.

15 **Q. Okay. I'll represent to you that I pulled**  
16 **this off the docket of the underlying case, that**  
17 **Southern District of Florida case against Ronda McNae**  
18 **and Will McNae.**

19 **Understood?**

20 A. Yes.

21 **Q. And you see the name of the case is listed**  
22 **here on the first page?**

23 A. Yes.

24 **Q. And the date of the document is October 26,**  
25 **2023. Do you see that?**

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1 **Martinez, United States District Judge.**

2 **Do you see that?**

3 A. Yes.

4 **Q. Did I read that correctly?**

5 A. Yes.

6 **Q. And then if you go to the bottom of the page,**  
7 **it reads: Parties shall file their Daubert motions and**  
8 **motions for summary judgment 15 days after the close of**  
9 **pleadings.**

10 **Did I read that correctly?**

11 A. Yes.

12 **Q. What are Daubert motions?**

13 A. I don't know.

14 MR. MULLALY: Out of scope.

15 Yeah, you can answer if you know.

16 **Q (By Mr. Ruiz) Now, what's ARAG's**  
17 **understanding of what other pretrial motions would need**  
18 **to be filed in the federal court action if it went to**  
19 **trial?**

20 MR. MULLALY: Object to form.

21 You can answer.

22 A. I don't know what those would be.

23 **Q (By Mr. Ruiz) And when would those be due?**

24 MR. MULLALY: Outside of scope.

25 You can answer.

30 (Pages 117 to 120)

Page 121

1 A. This document states 45 days after the close  
2 of pleadings.  
3 **Q (By Mr. Ruiz) And when would that be? Do**  
4 **you know?**  
5 A. No, I don't know.  
6 **Q. Do you see it says: Joint Pretrial**  
7 **Stipulation must be filed 75 days after closing?**  
8 A. Yes, I see that.  
9 **Q. What's a joint pretrial stipulation?**  
10 MR. MULLALY: Objection. Out of scope.  
11 You can answer if you know.  
12 A. I don't know.  
13 **Q (By Mr. Ruiz) Of course -- well, let me ask**  
14 **you this: What are voir dire questions?**  
15 MR. MULLALY: Objection. Outside of scope.  
16 You can answer if you know.  
17 A. I don't know.  
18 **Q (By Mr. Ruiz) Of course, the trial involves**  
19 **jury selection, preparation of exhibits, preparation of**  
20 **witnesses, opening statements, direct witness**  
21 **examinations, cross-examinations, motions for judgment**  
22 **as a matter of law, evidentiary objections, motion in**  
23 **limine, closing arguments.**  
24 **Does ARAG agree that a federal court trial in**  
25 **a civil case involves those things?**

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1 MR. MULLALY: Objection to form. Objection.  
2 Out of scope.  
3 You can answer.  
4 A. Yeah, I'd say so. Yes.  
5 **Q (By Mr. Ruiz) Now, is there any record at**  
6 **ARAG that indicates any consideration of the pressing**  
7 **needs of an upcoming trial before deciding to terminate**  
8 **the attorneys for Mr. and Mrs. McNae?**  
9 MR. MULLALY: Objection to form.  
10 You can answer.  
11 A. I'm sorry, could you repeat that?  
12 **Q (By Mr. Ruiz) Is there any record at ARAG**  
13 **that indicates any consideration of the pressing needs**  
14 **of an upcoming trial before deciding to terminate the**  
15 **attorneys for Mr. and Mrs. McNae?**  
16 MR. MULLALY: Same objection.  
17 You can answer.  
18 A. No record.  
19 **Q (By Mr. Ruiz) Did any discussion of these**  
20 **pressing needs occur before ARAG decided to terminate**  
21 **the attorneys for Mr. and Mrs. McNae?**  
22 MR. MULLALY: Objection to form.  
23 You can answer.  
24 A. I wasn't present for that discussion, so if  
25 that was included, I'm -- I'm not aware.

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1 **Q (By Mr. Ruiz) Okay. I appreciate you not**  
2 **guessing or speculating.**  
3 **Was any warning given by ARAG to either**  
4 **Mr. or Mrs. McNae that ARAG was considering terminating**  
5 **the attorneys before November 20th, 2023?**  
6 MR. MULLALY: Objection to form.  
7 You can answer.  
8 A. No.  
9 **Q (By Mr. Ruiz) Why not?**  
10 MR. MULLALY: Objection to form.  
11 You can answer.  
12 A. I don't know.  
13 **Q (By Mr. Ruiz) Was any warning given to**  
14 **either Ms. Casey or Ms. Fotiu-Wojtowicz that ARAG was**  
15 **considering terminating them before November 20th of**  
16 **2023?**  
17 MR. MULLALY: Objection to form.  
18 You can answer.  
19 A. No.  
20 **Q (By Mr. Ruiz) Why not?**  
21 MR. MULLALY: Objection to form.  
22 You can answer.  
23 A. I don't know.  
24 **Q (By Mr. Ruiz) Has anyone at ARAG after**  
25 **November 20th, 2023 said something along the lines of,**

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1 **you know, maybe we should have given the McNaes a heads-**  
2 **up that this might be coming?**  
3 MR. MULLALY: Objection to form. Outside of  
4 scope.  
5 You can answer.  
6 A. Not that I'm aware of.  
7 **Q (By Mr. Ruiz) Has anyone inside of ARAG,**  
8 **since November 20th, 2023, said something like, hey, you**  
9 **know what, maybe we should have told Ms. Casey and**  
10 **Ms. Fotiu-Wojtowicz that we were considering terminating**  
11 **their contracts?**  
12 MR. MULLALY: Objection to form. Objection.  
13 Out of scope.  
14 You can answer.  
15 A. No.  
16 **Q (By Mr. Ruiz) Has anyone inside of ARAG**  
17 **since November 20th, 2023 said, hey, you know what, it**  
18 **might have been the right thing to do --**  
19 MR. MULLALY: Same objection.  
20 MR. RUIZ: Hold -- you've got to wait for my  
21 question to end.  
22 MR. MULLALY: I thought you were done.  
23 **Q (By Mr. Ruiz) -- might have been the right**  
24 **thing to do to check the case schedule to see when the**  
25 **trial is and what the needs of the case is before we**

31 (Pages 121 to 124)

Page 125

1 **terminate Ms. Casey and Ms. Fotiu-Wojtowicz?**

2 MR. MULLALY: Same objection.

3 You can answer.

4 And apologies, Isaac.

5 A. No.

6 **Q (By Mr. Ruiz) Why not?**

7 MR. MULLALY: Same objections.

8 You can answer.

9 A. Our records indicated that the case was set  
10 for trial in February. So we -- we were aware from one  
11 of the attorneys providing us an update that -- the time  
12 frame that was involved.

13 **Q (By Mr. Ruiz) Did ARAG consult with any**  
14 **attorneys before November 20th, 2023 to see if they**  
15 **would be available to take over the representations of**  
16 **the McNaes?**

17 A. No.

18 **Q. Why not?**

19 A. We've outlined the options to the McNaes that  
20 were available to them.

21 **Q. How does ARAG think Ronda McNae felt when she**  
22 **found out ARAG was terminating Ms. Fotiu-Wojtowicz?**

23 MR. MULLALY: Objection to form. Outside of  
24 scope. Calls for speculation.

25 You can answer.

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1 MR. MULLALY: Object to form.

2 You can answer.

3 A. None that I'm aware of.

4 **Q (By Mr. Ruiz) Who are all the people who**  
5 **were involved in making that decision?**

6 A. I don't know.

7 **Q. And who ultimately made the decision?**

8 A. I don't know.

9 **Q. It wasn't you; right?**

10 A. Correct.

11 **Q. Did anyone inside of your company even**  
12 **suggest that, hey, this might be the wrong decision?**

13 MR. MULLALY: Object to form.

14 You can answer.

15 A. I don't know.

16 **Q (By Mr. Ruiz) Did you know the decision was**  
17 **going to be made before it got made?**

18 Let me ask it again.

19 **Did you know the attorneys were going to be**  
20 **terminated before they were terminated?**

21 MR. MULLALY: Object to form.

22 You can answer.

23 A. I was aware that that was under consideration  
24 by reviewing a draft of the letters that were prepared.

25 **Q (By Mr. Ruiz) And did you voice any**

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1 A. Mrs. McNae communicated her frustration with  
2 ARAG.

3 **Q (By Mr. Ruiz) And ARAG can certainly**  
4 **understand that; right?**

5 MR. MULLALY: Same objections.

6 You can answer.

7 A. Yes.

8 **Q (By Mr. Ruiz) And how does ARAG think Will**  
9 **McNae felt when he found out ARAG was terminating**  
10 **Ms. Casey?**

11 MR. MULLALY: Same objections.

12 You can answer.

13 A. Mr. McNae also communicated his frustration  
14 to ARAG.

15 **Q (By Mr. Ruiz) What was the time period from**  
16 **when ARAG started considering whether to terminate**  
17 **Ms. Fotiu-Wojtowicz to when it decided to terminate her?**

18 MR. MULLALY: Objection to form.

19 You can answer.

20 A. I don't know.

21 **Q (By Mr. Ruiz) What documents exist relating**  
22 **to the decision -- and we're talking about event number**  
23 **five here on the screen on Exhibit 3 again.**

24 **What documents exist relating to the decision**  
25 **whether to terminate Ms. Fotiu-Wojtowicz's contract?**

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1 **concerns -- any concerns -- about the possibility of**  
2 **terminating these two attorneys?**

3 MR. MULLALY: Object to form.

4 You can answer.

5 A. I had questions about some of the terminology  
6 in the letter.

7 **Q (By Mr. Ruiz) Is there an email that says**  
8 **that?**

9 A. Yes.

10 **Q. All right. I'm not sure I've seen that**  
11 **email. I'll go back and look at it.**

12 **Was it one of the emails that you saw in**  
13 **getting ready for today?**

14 A. I don't recall.

15 **Q. Did you have any conversations with anyone**  
16 **about this possible decision to terminate the two**  
17 **attorneys?**

18 MR. MULLALY: Object to form.

19 You can answer.

20 A. No.

21 **Q (By Mr. Ruiz) Is there any record of anyone**  
22 **at ARAG voicing concern for the negative impacts of the**  
23 **decision to terminate Ms. Fotiu-Wojtowicz, negative**  
24 **impacts on Ms. McNae?**

25 MR. MULLALY: Object to form. Calls for

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1 speculation.

2 You can answer, Meagen.

3 A. Not that I'm aware of.

4 **Q (By Mr. Ruiz) Did anyone at ARAG -- well,**  
5 **strike that.**

6 **At the time that it was under consideration**  
7 **to terminate Alaina Fotiu-Wojtowicz, did anyone speak up**  
8 **or articulate the interests of Ronda McNae?**

9 MR. MULLALY: Object to form.

10 You can answer.

11 MR. RUIZ: That's a good objection because I  
12 left out a word.

13 **Q (By Mr. Ruiz) When the decision to terminate**  
14 **Alaina Fotiu-Wojtowicz was under consideration, did**  
15 **anyone inside the organization articulate the negative**  
16 **impacts on Ronda McNae or what would be in her interests**  
17 **to do?**

18 MR. MULLALY: Same objection.

19 You can answer.

20 A. I'm not sure.

21 **Q (By Mr. Ruiz) Have you seen any document**  
22 **that reflects that?**

23 A. No.

24 **Q. So who wrote the termination letter?**

25 MR. MULLALY: Object to form.

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1 occurring on November 20th, 2023.

2 **What was the time period when ARAG started**  
3 **considering whether to terminate Ms. Casey to when it**  
4 **decided to terminate her?**

5 MR. MULLALY: Objection. Form.

6 You can answer.

7 A. I'm not sure.

8 **Q (By Mr. Ruiz) What documents exist relating**  
9 **to the decision whether to terminate Ms. Casey?**

10 MR. MULLALY: Objection to form.

11 You can answer.

12 A. The letter itself.

13 **Q (By Mr. Ruiz) Other than that?**

14 A. I'm not aware of any.

15 **Q. Who are all the people who were involved in**  
16 **making the decision?**

17 A. I don't know.

18 **Q. Who ultimately made the decision?**

19 A. I'm not sure.

20 **Q. Similar to the questions I asked you with**  
21 **respect to Alaina Fotiu-Wojtowicz but now with respect**  
22 **to Stephanie Casey.**

23 **Now, did anyone inside of ARAG even suggest**  
24 **that it would be a mistake to terminate Ms. Casey's**  
25 **contract?**

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1 You can answer.

2 A. I'm not sure.

3 **Q (By Mr. Ruiz) Who said, "Send it"?**

4 A. I don't know that -- individually who -- who  
5 made that decision.

6 **Q. Have you ever called Mr. Murray and asked to**  
7 **talk to him and said, hey, Mr. Murray, I disagree with**  
8 **X, Y, or Z that you're doing?**

9 MR. MULLALY: Object to form. Outside of  
10 scope if it's not related to the McNae case.

11 You can answer, Meagen.

12 **Q (By Mr. Ruiz) On anything, whether it's**  
13 **claim related or anything else, Ms. Adams, have you ever**  
14 **done that?**

15 MR. MULLALY: Objection. Outside of scope.  
16 Objection to form.

17 You can answer.

18 A. No.

19 **Q (By Mr. Ruiz) Was it a mistake to terminate**  
20 **Ms. Fotiu-Wojtowicz?**

21 MR. MULLALY: Object to form.

22 You can answer.

23 A. No.

24 **Q (By Mr. Ruiz) Let's move on to number six,**  
25 **then. This is the termination of Stephanie Casey, also**

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1 MR. MULLALY: Objection to form.

2 You can answer.

3 A. I don't know.

4 **Q (By Mr. Ruiz) And is there any record of**  
5 **anyone inside of ARAG voicing concern for the negative**  
6 **impacts of this decision on Mr. McNae?**

7 MR. MULLALY: Objection to form.

8 You can answer.

9 A. Not that I'm aware of.

10 **Q (By Mr. Ruiz) Did anyone inside of ARAG**  
11 **speak up for Mr. McNae's interests?**

12 MR. MULLALY: Objection to form.

13 You can answer.

14 A. I'm not sure.

15 **Q (By Mr. Ruiz) Did anyone inside of ARAG**  
16 **articulate that there could be negative impacts on**  
17 **Mr. McNae from the decision to terminate Ms. Casey?**

18 MR. MULLALY: Object to form.

19 You can answer.

20 A. I'm not sure.

21 **Q (By Mr. Ruiz) Did anyone -- strike that.**  
22 **And who wrote the termination letter that was**  
23 **sent to Ms. Casey?**

24 MR. MULLALY: Object to form.

25 You can answer.

33 (Pages 129 to 132)

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1 A. I don't know.  
 2 **Q (By Mr. Ruiz) Who said, "Send it, send this**  
 3 **letter"?**  
 4 A. I'm not sure.  
 5 **Q. And I'm guessing ARAG does not think it was a**  
 6 **mistake to fire Ms. Casey.**  
 7 MR. MULLALY: Object to form.  
 8 You can answer.  
 9 **Q (By Mr. Ruiz) Does ARAG think it was a**  
 10 **mistake to terminate Ms. Casey's contract?**  
 11 MR. MULLALY: Object to form.  
 12 You can answer.  
 13 A. No.  
 14 MR. RUIZ: Please mark this Exhibit 5.  
 15 (Exhibit No. 5 introduced.)  
 16 **Q (By Mr. Ruiz) All right. Ms. Adams, do you**  
 17 **agree this is an email that you sent on November 21st,**  
 18 **2023?**  
 19 A. Yes.  
 20 **Q. And who are these folks that you sent it to?**  
 21 **Is that the committee?**  
 22 A. No.  
 23 **Q. Okay. Who are they?**  
 24 A. Those are --  
 25 MR. MULLALY: Object to form.

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1 You can answer.  
 2 THE WITNESS: Sorry.  
 3 A. Those include the claims supervisor, senior  
 4 claims specialist, and the claim analyst.  
 5 **Q (By Mr. Ruiz) Is what you've written in this**  
 6 **email true? Take a close read of it.**  
 7 A. There is a -- no. It's -- it's not  
 8 completely accurate.  
 9 **Q. All right. Well, read it all and then we're**  
 10 **going to go -- we're going to go over it.**  
 11 A. I've read it.  
 12 **Q. All right. What's inaccurate about this?**  
 13 **Oh -- strike that.**  
 14 **Did you write this yourself?**  
 15 A. Yes, I did.  
 16 **Q. Did anyone help you write it?**  
 17 A. No.  
 18 **Q. Okay. So why does it contain an inaccuracy?**  
 19 A. In the first sentence, I made a word choice  
 20 that was incorrect. It says "ceasing coverage for these  
 21 cases," and it should have read that we were  
 22 discontinuing payments for those cases.  
 23 **Q. Yeah, but you wrote "ceasing coverage";**  
 24 **right?**  
 25 A. I did, mm-hmm.

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1 **Q. All right. And you wrote it one day after**  
 2 **the decision to terminate occurred; right?**  
 3 A. Yes, I did.  
 4 MR. MULLALY: Object to form.  
 5 Sorry.  
 6 **Q (By Mr. Ruiz) Now, you're aware that a**  
 7 **letter went out to the McNaes on November 20th, 2023**  
 8 **also; right?**  
 9 A. Yes.  
 10 **Q. And what did that letter say about the**  
 11 **possibility of getting new counsel, if you remember?**  
 12 A. I don't recall without seeing the  
 13 communication again.  
 14 **Q. Regardless, you agree that you sent this**  
 15 **email on November 21st, 2023; right?**  
 16 A. Yes.  
 17 **Q. Yeah. This is a genuine, authentic copy of**  
 18 **the email that you sent; right?**  
 19 A. Yes.  
 20 **Q. And this was just one day after the**  
 21 **terminations happened; right?**  
 22 MR. MULLALY: Object to form.  
 23 You can answer.  
 24 A. Yes.  
 25 **Q (By Mr. Ruiz) And at the time you wrote**

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1 **this, you didn't think you were making a mistake in what**  
 2 **you were writing, did you?**  
 3 **You didn't make a mistake in this email on**  
 4 **purpose, did you, ma'am?**  
 5 A. No mistake -- a mistake wouldn't have been  
 6 made on purpose.  
 7 **Q. Right.**  
 8 **We're back at Exhibit 3. Can you look at**  
 9 **number 7, the letter of December 6, 2023 to William**  
 10 **McNae.**  
 11 **Do you see that item?**  
 12 A. Yes.  
 13 **Q. And then this is that letter.**  
 14 MR. RUIZ: Please mark it as Exhibit No. 6.  
 15 (Exhibit No. 6 introduced.)  
 16 **Q (By Mr. Ruiz) What is this document?**  
 17 A. Letter addressed to William McNae.  
 18 **Q. What's the date?**  
 19 A. December 6, 2023.  
 20 **Q. What was the purpose of ARAG sending this**  
 21 **letter?**  
 22 A. Could you scroll down a little bit, please?  
 23 This letter is communicating the indemnity  
 24 benefit that is available under the legal plan. It's  
 25 reiterating the December 1st, 2023 termination date for

34 (Pages 133 to 136)



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1 the counsel that they had.

2 And if you could scroll a little further, I  
3 see we're talking about the topic of reasonably pursuing  
4 resolution in the case.

5 Oh, and inviting -- if there are any ARAG  
6 network attorneys that they speak with that may be  
7 interested in taking their case, that we would be in  
8 communication with them.

9 **Q. Who are all the people who participated in  
10 the creation of this document?**

11 A. I don't know.

12 **Q. Do you know any of them?**

13 A. No, not certain -- not with certainty.

14 **Q. Were you involved?**

15 A. No.

16 **Q. Who approved this document going out?**

17 A. I don't know.

18 **Q. Who said it should be sent to Mr. McNae?**

19 A. I don't know.

20 **Q. Does ARAG agree that this letter was in fact  
21 sent on behalf of ARAG?**

22 A. Yes.

23 **Q. Is this a true and correct copy of the  
24 letter?**

25 A. Yes.

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1 You can answer.

2 **Q (By Mr. Ruiz) Within the terms of the legal  
3 insurance contract; correct?**

4 A. Yes.

5 **Q. Now, you brought it up here that this letter  
6 goes into this idea of pursuing reasonable avenues of  
7 settlement.**

8 **Do you see that?**

9 A. I do, yes.

10 **Q. As a general matter, does ARAG think that  
11 terminating attorneys three months before trial helps or  
12 hurts the possibility of resolving litigation on terms  
13 favorable to ARAG's insureds?**

14 MR. MULLALY: Object to form. Out of scope.

15 You can answer.

16 **Q (By Mr. Ruiz) As a general matter.**

17 MR. MULLALY: Same.

18 You can answer.

19 A. It depends.

20 **Q. (By Mr. Ruiz) Depends on what?**

21 MR. MULLALY: Same objections.

22 You can answer.

23 A. The timeline of three months, it may or may  
24 not be enough time for someone to -- to prepare.

25 **Q (By Mr. Ruiz) What about in the McNae claim?**

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1 **Q. No reason to doubt the authenticity of this  
2 copy; right?**

3 A. Right.

4 **Q. Was it a make -- was it a mistake to send  
5 this letter the way it's written?**

6 MR. MULLALY: Object to form.

7 You can answer.

8 A. No.

9 **Q (By Mr. Ruiz) Do you see up here -- I've  
10 been meaning to ask you all day and I keep forgetting.**

11 **Do you see this logo that says "ARAG Legal  
12 Insurance"?**

13 A. Yes.

14 **Q. What is legal insurance?**

15 MR. MULLALY: Object. Out of scope.

16 You can answer.

17 A. Legal insurance is a voluntary benefit that's  
18 offered through employers; at least the ARAG benefit  
19 plan is. And it provides assistance in connecting with  
20 an attorney to help people with their legal needs.

21 **Q (By Mr. Ruiz) Well, more than just  
22 assistance; right? It pays benefit, it pays money,  
23 doesn't it?**

24 A. Yes.

25 MR. MULLALY: Same objection.

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1 **If you're looking at it on November 20th,  
2 2023, would three months have been enough time for a new  
3 attorney -- well, first of all, to find a new attorney,  
4 and then to have that attorney to get ready for trial?**

5 A. I don't know.

6 MR. MULLALY: Objection to form. Objection.  
7 Speculation. Objection. Out of scope.

8 You can answer.

9 A. I don't know.

10 **Q (By Mr. Ruiz) Is there any record inside of  
11 the organization, ARAG, that even considers that  
12 question?**

13 A. Not to my knowledge.

14 MR. RUIZ: Can we go off the record?

15 MR. MULLALY: Yes.

16 THE VIDEOGRAPHER: Going off the record. The  
17 time now is approximately 1:33 p.m.

18 (Recess 1:33 p.m. to 1:45 p.m.)

19 THE VIDEOGRAPHER: Back on the record. The  
20 time now is approximately 1:45 p.m.

21 MR. RUIZ: Please mark this Exhibit No. 7.

22 (Exhibit No. 7 introduced.)

23 **Q (By Mr. Ruiz) Ms. Adams, do you agree that  
24 this is an email sent from Legal US to Stephanie Casey?**

25 A. Yes.

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1 **Q. Okay. So who is Legal US?**  
 2 A. That's the legal department at ARAG.  
 3 **Q. This particular email was sent by Jeff LeMay?**  
 4 A. His name is at the bottom, yes.  
 5 **Q. Is he a part of the legal department?**  
 6 A. No.  
 7 **Q. So doesn't he have his own email address?**  
 8 A. Yes.  
 9 **Q. Why didn't he send this to Ms. Casey under**  
 10 **his own email account?**  
 11 MR. MULLALY: Object to form.  
 12 You can answer.  
 13 A. I don't know.  
 14 **Q (By Mr. Ruiz) Who are all the people who**  
 15 **were involved in writing this exhibit, this email?**  
 16 A. I don't know that.  
 17 **Q. You agree that the date of this email is**  
 18 **December 20th, 2023 and the time is 8:23 p.m.?**  
 19 A. Yes.  
 20 **Q. And you agree that that's Stephanie Casey,**  
 21 **the attorney who was terminated who was representing --**  
 22 **who was representing Mr. McNae? Agreed?**  
 23 MR. MULLALY: Object to form.  
 24 You can answer.  
 25 A. Yes.

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1 **Did I read that correctly?**  
 2 A. Yes.  
 3 **Q. On what day does ARAG say that Mr. McNae**  
 4 **exhausted his pretrial indemnity benefit?**  
 5 MR. MULLALY: Object to form.  
 6 You can answer.  
 7 A. The indemnity benefit, which is spelled out  
 8 in the benefit plan -- I don't know what date, but it  
 9 would have been early on in the representation of this  
 10 case, based on the dollar amount.  
 11 **Q (By Mr. Ruiz) Is there any document anywhere**  
 12 **at ARAG before November 20th, 2023 that says that**  
 13 **Mr. McNae had exhausted his pretrial indemnity benefit?**  
 14 A. Not that I'm aware of.  
 15 **Q. And you reviewed all the documents that were**  
 16 **produced to me in this case; right?**  
 17 **(Crosstalk)**  
 18 MR. MULLALY: Object to form.  
 19 You can answer.  
 20 A. I did.  
 21 **Q (By Mr. Ruiz) Are you able to identify any**  
 22 **of those documents from ARAG before November 20th, 2023**  
 23 **that say that Mr. McNae exhausted his pretrial indemnity**  
 24 **benefit?**  
 25 A. No.

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1 **Q (By Mr. Ruiz) And you don't know who are all**  
 2 **the people who participated in writing this?**  
 3 A. No.  
 4 **Q. Have you ever discussed this document with**  
 5 **anybody?**  
 6 A. No.  
 7 **Q. Who ultimately approved that this email**  
 8 **should be sent?**  
 9 A. I don't know.  
 10 **Q. Who made the decision that Jeff LeMay should**  
 11 **sign it?**  
 12 A. I don't know.  
 13 **Q. Do you agree that this email was sent on**  
 14 **behalf of ARAG?**  
 15 A. Yes.  
 16 **Q. Is this a true and correct copy of the email?**  
 17 A. Yes.  
 18 **Q. Is there any reason to doubt the authenticity**  
 19 **of this email?**  
 20 A. No.  
 21 **Q. Do you see the highlighted language? It**  
 22 **says: "As you know, ARAG advised Mr. McNae and you that**  
 23 **his pre-trial indemnity benefit has been exhausted, and**  
 24 **that Mr. McNae should be responsible for any additional**  
 25 **pre-trial legal fees"?**

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1 **Q. Who -- and I'm asking for a specific person.**  
 2 **Who made the determination that Mr. McNae**  
 3 **exhausted his pretrial indemnity benefit?**  
 4 MR. MULLALY: Object to form.  
 5 You can answer.  
 6 A. I don't know.  
 7 **Q (By Mr. Ruiz) Did either of the termination**  
 8 **letters say that Mr. McNae had exhausted his pretrial**  
 9 **indemnity benefit?**  
 10 MR. MULLALY: Object to form.  
 11 You can answer.  
 12 A. No, I don't believe so.  
 13 **Q (By Mr. Ruiz) Regardless of who made the**  
 14 **determination allegedly that Mr. McNae had exhausted his**  
 15 **pretrial indemnity benefit, when was that decision made?**  
 16 MR. MULLALY: Object to form.  
 17 You can answer.  
 18 A. I don't know.  
 19 **Q (By Mr. Ruiz) Where is it recorded for the**  
 20 **first time that ARAG felt that Mr. McNae had exhausted**  
 21 **his pretrial indemnity benefit?**  
 22 MR. MULLALY: Object to form.  
 23 You can answer.  
 24 **Q (By Mr. Ruiz) Let me rephrase just to get**  
 25 **rid of the word "felt."**

36 (Pages 141 to 144)



Page 145

1 Where is it recorded for the first time at  
 2 ARAG has Mr. McNae had exhausted his pretrial indemnity  
 3 benefit?  
 4 MR. MULLALY: Same objection.  
 5 You can answer.  
 6 A. I'm not sure.  
 7 **Q (By Mr. Ruiz) When was the possibility that**  
 8 **Mr. McNae was close to exhausting his pretrial indemnity**  
 9 **benefit first communicated to either Mr. McNae or**  
 10 **Mrs. McNae?**  
 11 MR. MULLALY: Same objection.  
 12 You can answer.  
 13 A. I believe we previously looked at the  
 14 communication of -- December 6, was it?  
 15 **Q (By Mr. Ruiz) Anytime before December 6?**  
 16 A. Prior to that, I'm not sure.  
 17 **Q. Was it a mistake to send Exhibit 7, which is**  
 18 **up on your screen, the way it's --**  
 19 MR. MULLALY: Object --  
 20 (Crosstalk)  
 21 MR. MULLALY: Pardon me.  
 22 Object to form.  
 23 You can answer.  
 24 A. No.  
 25 **Q (By Mr. Ruiz) Back on the screen is Exhibit**

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1 **Q. Yes, of course. Let me know when you want me**  
 2 **to scroll down.**  
 3 A. Yes, please scroll.  
 4 Yes, there could have been attorneys  
 5 involved.  
 6 **Q. Attorneys inside of ARAG or outside?**  
 7 A. Inside. I can't say about outside.  
 8 **Q. Who are the attorneys who would have been**  
 9 **involved in creating Exhibit 8?**  
 10 A. Ann Cosimano.  
 11 **Q. Who else?**  
 12 A. No one else internally as far as attorneys  
 13 go.  
 14 **Q. Did Jeff LeMay have any role in writing the**  
 15 **words on this letter?**  
 16 A. I don't know.  
 17 **Q. Besides this letter and besides an insurance**  
 18 **contract, what other information did ARAG rely on in**  
 19 **reaching its coverage decision?**  
 20 A. Could you ask that again? I'm sorry.  
 21 **Q. You understand that this letter relates to**  
 22 **the state court action commenced against William McNae;**  
 23 **right?**  
 24 A. Yes.  
 25 **Q. You also understand that this letter relates**

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1 **3. We were just talking about event number eight.**  
 2 **Do you see that?**  
 3 A. Yes.  
 4 **Q. Now I'm going to turn to event number nine.**  
 5 **This is a letter of January 23rd, 2024 to**  
 6 **William McNae relating to coverage. All right?**  
 7 A. Yes.  
 8 MR. RUIZ: Please mark this Exhibit 8.  
 9 (Exhibit No. 8 introduced.)  
 10 **Q (By Mr. Ruiz) This is a letter sent by ARAG.**  
 11 **Do you agree?**  
 12 A. Yes.  
 13 **Q. The date is January 3rd, 2024; correct?**  
 14 A. Yes.  
 15 **Q. And the addressee is William McNae; true?**  
 16 A. Yes.  
 17 **Q. It is signed at the end by Jeff LeMay,**  
 18 **director of customer care and claims; correct?**  
 19 A. Yes.  
 20 **Q. Who are all of the people who participated in**  
 21 **creating this document?**  
 22 A. I'm not sure.  
 23 **Q. Were attorneys involved? That's a yes-or-no**  
 24 **question.**  
 25 A. May I see more of the content?

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1 **to whether ARAG thinks there's coverage for that.**  
 2 **Right?**  
 3 A. Yes.  
 4 MR. MULLALY: Object to form.  
 5 You can answer.  
 6 **Q (By Mr. Ruiz) Besides this letter itself and**  
 7 **besides the insurance contract, is there any other**  
 8 **information that ARAG was relying on in reaching its**  
 9 **coverage decision?**  
 10 MR. MULLALY: Object to form.  
 11 You can answer.  
 12 A. I'm not sure.  
 13 **Q (By Mr. Ruiz) Well, did ARAG do any research**  
 14 **to assist it in making the coverage decision?**  
 15 MR. MULLALY: Object to form.  
 16 You can answer.  
 17 A. I can't say what research was conducted.  
 18 **Q (By Mr. Ruiz) Because you don't know?**  
 19 A. Right, I don't know.  
 20 **Q. You don't know if any research was conducted;**  
 21 **right?**  
 22 A. Right.  
 23 **Q. Well, do you know if ARAG relied on any**  
 24 **literature to assist it in its coverage decision?**  
 25 MR. MULLALY: Object to form.

37 (Pages 145 to 148)

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1 You can answer.  
 2 A. No.  
 3 **Q (By Mr. Ruiz) Who ultimately approved**  
 4 **sending this letter, Exhibit No. 8, which is the**  
 5 **January 3rd, 2024 letter?**  
 6 A. I don't know.  
 7 **Q. Who said it should be sent to Mr. McNae?**  
 8 A. I'm not sure.  
 9 **Q. But you do agree that this letter was**  
 10 **actually sent on behalf of ARAG?**  
 11 A. Yes.  
 12 **Q. And this is a true and correct copy of that**  
 13 **letter; right?**  
 14 A. Yes.  
 15 **Q. No reason to doubt the authenticity of this**  
 16 **letter; right?**  
 17 A. Right.  
 18 **Q. Does ARAG agree it is important, when writing**  
 19 **a letter to the insured, to accurately quote the**  
 20 **language from the controlling insurance contract?**  
 21 MR. MULLALY: Object. Out of scope.  
 22 You can answer.  
 23 A. Yes, that's important.  
 24 **Q (By Mr. Ruiz) Does this letter accurately**  
 25 **quote the language from the insurance contract?**

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1 MR. MULLALY: Object. Out of scope.  
 2 You can answer.  
 3 A. I would need to go through and compare it to  
 4 the benefit plan language to answer that.  
 5 **Q (By Mr. Ruiz) You've never looked at that**  
 6 **specific question before now; right?**  
 7 MR. MULLALY: Object to form.  
 8 You can answer.  
 9 A. What was that question?  
 10 **Q (By Mr. Ruiz) You've never examined whether**  
 11 **the quotations in this letter of the contract are**  
 12 **accurate?**  
 13 MR. MULLALY: Same objection.  
 14 You can answer.  
 15 A. Correct, I've not made that comparison.  
 16 **Q (By Mr. Ruiz) Has anyone inside of ARAG gone**  
 17 **back to double-check that this letter is accurately**  
 18 **quoting the contract language?**  
 19 A. I don't know.  
 20 **Q. Again, the date of this letter was**  
 21 **January 3rd, 2024; true?**  
 22 A. Yes.  
 23 **Q. When was the Florida state court case filed?**  
 24 A. I don't recall the date offhand.  
 25 **Q. Was that before or after the conversion plan**

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1 **was purchased?**  
 2 A. I believe -- it was after.  
 3 **Q. Does ARAG agree that this letter takes the**  
 4 **position there is no coverage for legal services in**  
 5 **defense of a Florida state court action?**  
 6 MR. MULLALY: Objection to form.  
 7 You can answer.  
 8 A. Yes.  
 9 **Q (By Mr. Ruiz) Was it a mistake to send this**  
 10 **letter the way it's written?**  
 11 MR. MULLALY: Objection to form.  
 12 You can answer.  
 13 A. No.  
 14 **Q (By Mr. Ruiz) Is there any document in which**  
 15 **ARAG changes its coverage position and says, yes, we**  
 16 **agree there is coverage for legal services in defense of**  
 17 **a Florida state court action?**  
 18 MR. MULLALY: Objection to form.  
 19 You can answer.  
 20 A. Not that I'm aware of, no.  
 21 **Q (By Mr. Ruiz) Is there anyone at ARAG who,**  
 22 **at any time while termination was under consideration or**  
 23 **after, stood up and said, "It's not okay to do this to**  
 24 **the McNaes"?**  
 25 MR. MULLALY: Objection to the form.

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1 You can answer.  
 2 A. Not to my knowledge.  
 3 **Q (By Mr. Ruiz) From the moment that ARAG**  
 4 **started considering terminating the attorneys, has**  
 5 **anyone at all inside of ARAG advocated on behalf of the**  
 6 **McNaes and fought against the terminations?**  
 7 MR. MULLALY: Objection to form.  
 8 You can answer.  
 9 A. No, not that I'm aware of.  
 10 **Q (By Mr. Ruiz) And from the moment that ARAG**  
 11 **started considering terminating the attorneys, has**  
 12 **anyone at all inside of ARAG advocated on behalf of the**  
 13 **McNaes and fought to have the attorneys reinstated?**  
 14 MR. MULLALY: Objection to form.  
 15 You can answer.  
 16 A. No, not that I'm aware of.  
 17 **Q (By Mr. Ruiz) From the moment that ARAG**  
 18 **found out about the Florida state court action against**  
 19 **Mr. McNae, has anyone at all inside of ARAG advocated on**  
 20 **behalf of the McNaes and fought to stop ARAG from**  
 21 **sending the January 3rd, 2024 letter relating to**  
 22 **coverage?**  
 23 MR. MULLALY: Objection to form.  
 24 You can answer.  
 25 A. No.

38 (Pages 149 to 152)

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1 **Q (By Mr. Ruiz) Earlier today you said who --**  
 2 **who inside of ARAG normally makes the initial coverage**  
 3 **determination?**

4 A. Customer care.

5 **Q. All right. And so did customer care make the**  
 6 **determination relating to the Florida state court**  
 7 **action?**

8 A. I don't know. That would be the typical  
 9 course of action.

10 **Q. Do you -- but -- I'm not asking for you to**  
 11 **assume or speculate.**

12 **Was customer care -- did they make the**  
 13 **decision about whether to accept or deny coverage**  
 14 **relating to the Florida state court action?**

15 MR. MULLALY: Object to form.

16 You can answer.

17 THE WITNESS: I think I want -- could I ask  
 18 you, Mr. Mullaly, for a moment with this question?

19 MR. MULLALY: Only if you have a question  
 20 relating to privilege -- sorry, go ahead, Isaac.

21 THE WITNESS: That's what I wasn't sure of.

22 **Q (By Mr. Ruiz) Well, I don't want you to give**  
 23 **me any information about advice that you have received,**  
 24 **but I do want to know what facts the company has in its**  
 25 **possession.**

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1 A. No.

2 MR. MULLALY: Object to form.

3 You can answer.

4 **Q. (By Mr. Ruiz) You know, I have a little bit**  
 5 **of a confession. I've been doing this for 24 years and**  
 6 **I've lost track of how many depositions I've taken, and**  
 7 **no matter how many I do, I'm always nervous at the**  
 8 **beginning. You can probably tell.**

9 **And it's because what we're doing here is**  
 10 **real important and there's a legal proceeding and you're**  
 11 **under oath and I have to make sure that I ask the right**  
 12 **questions to help my clients.**

13 **Were you nervous this morning when this**  
 14 **deposition started?**

15 MR. MULLALY: Object to form. Object.

16 Outside of scope.

17 You can answer.

18 A. A little.

19 **Q (By Mr. Ruiz) Yeah?**

20 **Can you understand how Ronda McNae might have**  
 21 **felt during those days when she was pro se in the**  
 22 **federal court action?**

23 MR. MULLALY: Object to form. Object. Out  
 24 of scope. Calls for speculation.

25 You can answer.

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1 **Do you know the fact that -- whether customer**  
 2 **care made the decision?**

3 MR. MULLALY: Object to form.

4 You can answer.

5 A. Yes, they made -- made the decision.

6 **Q (By Mr. Ruiz) Who inside of customer care**  
 7 **made the decision?**

8 A. I don't know.

9 **Q. What was Mr. Murray's involvement in the**  
 10 **decision about whether to accept or deny coverage with**  
 11 **respect to the Florida state court action?**

12 A. Oh, I don't know.

13 MR. MULLALY: Object to form.

14 You can answer.

15 A. I don't know.

16 **Q (By Mr. Ruiz) Is there any record at all**  
 17 **inside of ARAG in which an employee of ARAG articulates**  
 18 **the negative impacts to the McNaes from ARAG's**  
 19 **decisions?**

20 MR. MULLALY: Object to form.

21 You can answer.

22 A. No.

23 **Q (By Mr. Ruiz) Okay. And are you aware of**  
 24 **any person who stood up and articulated the possible**  
 25 **negative impacts on the McNaes from ARAG's decisions?**

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1 **Q (By Mr. Ruiz) I'm asking on behalf of ARAG.**  
 2 **I want ARAG's position.**

3 **Can ARAG understand how Ronda McNae must have**  
 4 **felt in those days when she didn't have an attorney in**  
 5 **this very heated federal court lawsuit in Florida?**

6 MR. MULLALY: Same objections.

7 You can answer.

8 **Q (By Mr. Ruiz) Does ARAG understand that?**

9 MR. MULLALY: Same objections.

10 You can answer.

11 A. Yes, we do understand.

12 **Q (By Mr. Ruiz) Yeah. And that's not a good**  
 13 **feeling; right?**

14 MR. MULLALY: Same objections.

15 You can answer.

16 **Q (By Mr. Ruiz) Did we lose you?**

17 MR. RUIZ: Is she frozen for everybody else?

18 MR. MULLALY: Yes.

19 THE VIDEOGRAPHER: Do you want to go off or  
 20 wait a second?

21 MR. RUIZ: Let's wait a second.

22 **Q (By Mr. Ruiz) Hi, Ms. Adams.**

23 A. Sorry. It seems things froze there.

24 **Q. I'm glad to have you back.**

25 MR. RUIZ: Karmen, what was the last question

39 (Pages 153 to 156)

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1 I asked, please?

2 THE COURT REPORTER: I'll read the last two  
3 so it will make sense.

4 (The reporter read back.)

5 MR. MULLALY: Same objection.

6 **Q (By Mr. Ruiz) Right, Ms. Adams?**

7 MR. MULLALY: Same objection.

8 You can answer.

9 A. Right.

10 **Q (By Mr. Ruiz) And can ARAG understand what  
11 it must have felt like to have it suggested to Ms. Ronda  
12 McNae that she put out a statement saying that she had  
13 not been sexually assaulted?**

14 MR. MULLALY: Same objections.

15 You can answer.

16 A. I'm a little confused by the question, I  
17 guess.

18 **Q (By Mr. Ruiz) Well, you're aware that one  
19 of the settlement terms that was proposed by  
20 Mr. Fitzgerald -- you mentioned it earlier -- was a  
21 public statement by Ms. McNae recanting that she had  
22 been sexually assaulted by him; isn't that right?**  
23 A. Yes.  
24 **Q. Did ARAG understand why that might not be  
25 something that Ronda McNae would be interested in doing?**

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1 **part of the group plan. Do you agree?**

2 A. Yes.

3 **Q. He had this individual plan that he was  
4 paying for himself. Do you agree?**

5 A. Yes.

6 THE COURT REPORTER: Isaac, you got quieter.  
7 Is your microphone --

8 MR. RUIZ: Yeah, probably.

9 Is that better?

10 MR. MULLALY: Yes. Thank you.

11 THE COURT REPORTER: And, sorry, was that  
12 last document Exhibit 9?

13 MR. RUIZ: Yes.

14 (Exhibit No. 9 introduced.)

15 MR. RUIZ: Please mark this one Exhibit 10.

16 (Exhibit No. 10 introduced.)

17 **Q (By Mr. Ruiz) Ms. Adams, do you agree that  
18 this appears to be an email from ARAG to William McNae  
19 dated July 21st, 2023?**

20 A. Yes.

21 **Q. And this is an email that ARAG sent regarding  
22 converting from the group plan to his individual plan?**

23 MR. MULLALY: Object. Out of scope.

24 You can answer.

25 A. Yes, that's right.

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1 A. Yes.

2 **Q. And that the very suggestion would be  
3 offensive to a normal human being?**

4 MR. MULLALY: Same objections.

5 You can answer.

6 A. Yes.

7 **Q (By Mr. Ruiz) What is this document?**

8 A. Could you enlarge that, please?

9 Thank you.

10 Yeah, if you could scroll. Thank you.

11 This is a communication about enrollment in  
12 the UltimateAdvisor Plus benefit plan.

13 **Q. What's the UltimateAdvisor Conversion Plan?**

14 A. That is a product that is offered to plan  
15 members who are no longer eligible for a group plan due  
16 to a change in their employment status.

17 **Q. Mr. McNae was let go by Microsoft?**

18 MR. MULLALY: Object to form. Object.  
19 Outside of scope.

20 You can answer.

21 **Q (By Mr. Ruiz) Ms. Adams, Mr. McNae stopped  
22 being employed by Microsoft; would you agree?**

23 A. Yes.

24 **Q. And then he converted his plan and he's no  
25 longer -- as of October 1st, 2023, he was no longer a**

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1 MR. RUIZ: Please mark this Exhibit No. 11.  
2 (Exhibit No. 11 introduced.)

3 **Q (By Mr. Ruiz) What is this document?**

4 A. This is the certificate for the  
5 UltimateAdvisor Conversion Plan.

6 **Q. This is the group plan?**

7 MR. MULLALY: Object to form.

8 You can answer.

9 A. It's -- it's the UltimateAdvisor group plan,  
10 yes.

11 **Q (By Mr. Ruiz) Well, let me -- let's -- let's  
12 figure it out, because I have two documents.**

13 This is called group legal insurance; right?

14 A. Yes.

15 **Q. Now, let me -- let's just -- let's go compare  
16 a couple of documents.**

17 The version I showed you first starts with  
18 Bates No. 1630.

19 Now, this is a different document, and this  
20 one starts with Bates No. 1525.

21 MR. RUIZ: Please mark the one that starts  
22 with 1525 as Exhibit 12.

23 (Exhibit No. 12 introduced.)

24 **Q (By Mr. Ruiz) Is there -- what's the  
25 difference between these two documents?**

40 (Pages 157 to 160)

Page 161

1 MR. MULLALY: Object. Outside of scope.  
 2 You can answer.  
 3 A. Yeah, if you could scroll down further, that  
 4 would...  
 5 **Q (By Mr. Ruiz) Let me know when I can go**  
 6 **further.**  
 7 A. Yeah. Keep scrolling.  
 8 Okay. So, yeah, this document here is the  
 9 policy with all of that information here. And the other  
 10 document is the benefit plan, as you can see the content  
 11 at the beginning there is a bit different, so it has  
 12 those first pages that differ.  
 13 **Q. But they both have the same definitions?**  
 14 A. Yes.  
 15 **Q. All right. So --**  
 16 MR. MULLALY: Object --  
 17 (Crosstalk)  
 18 MR. MULLALY: I'm sorry. Just --  
 19 (Crosstalk)  
 20 MR. MULLALY: Sorry, Isaac.  
 21 **Q. (By Mr. Ruiz) We're both going to get there**  
 22 **together. I just want -- you're going to tell me what**  
 23 **these two documents are and how they're used. Right?**  
 24 MR. MULLALY: Object to outside of scope.  
 25 You can answer.

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1 A. Yes.  
 2 **Q (By Mr. Ruiz) All right. And can you share**  
 3 **some information about what these documents are, what**  
 4 **the differences are, how they're used?**  
 5 MR. MULLALY: Same objection.  
 6 You can answer.  
 7 A. This document that we're looking at right now  
 8 contains, on the first two pages that we scrolled  
 9 through, premium price, a list of the specific  
 10 endorsement forms that are --  
 11 **Q. (By Mr. Ruiz) You're talking about Exhibit**  
 12 **12. Yes. Keep going.**  
 13 MR. MULLALY: Same objection.  
 14 You can answer.  
 15 A. Yes. So this is -- includes the declarations  
 16 page and the other document does not.  
 17 **Q. And this says "Conversion Plan"; right?**  
 18 A. Yes.  
 19 **Q. UltimateAdvisor Conversion Plan.**  
 20 **Is this the document -- is this the policy**  
 21 **that Mr. McNae was buying individually?**  
 22 MR. MULLALY: Same objection.  
 23 You can answer.  
 24 A. Yes.  
 25 **Q (By Mr. Ruiz) Understood.**

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1 **Let's stay with Exhibit 12, then. What is a**  
 2 **conversion plan?**  
 3 MR. MULLALY: Same objection.  
 4 You can answer.  
 5 A. It's the plan that's available for  
 6 individuals who have ended their employment with a group  
 7 that had been working with ARAG for that benefit.  
 8 **Q (By Mr. Ruiz) Is this a contract?**  
 9 MR. MULLALY: Same objection.  
 10 You can answer.  
 11 A. I guess I don't know.  
 12 **Q (By Mr. Ruiz) Do you see there's a section**  
 13 **on -- this is page 3 of the exhibit, the PDF we're**  
 14 **looking at. There's a policy period, says January 1st,**  
 15 **2023 through December 31st, 2023 also.**  
 16 **Do you see that?**  
 17 A. Yes.  
 18 **Q. Does ARAG agree that Mr. McNae was a party to**  
 19 **this policy?**  
 20 MR. MULLALY: Same objection.  
 21 You can answer.  
 22 A. Yes.  
 23 **Q (By Mr. Ruiz) And Ronda McNae was also an**  
 24 **insured under this policy as his spouse; correct?**  
 25 MR. MULLALY: Same objection.

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1 You can answer.  
 2 A. Yes.  
 3 **Q (By Mr. Ruiz) And ARAG obviously agrees that**  
 4 **ARAG is a party to this contract. Agreed?**  
 5 A. Yes.  
 6 **Q. And Mr. McNae paid the premiums for this**  
 7 **UltimateAdvisor Conversion Plan; right?**  
 8 MR. MULLALY: Same objection.  
 9 You can answer.  
 10 A. Yes.  
 11 **Q (By Mr. Ruiz) Now, is there any document at**  
 12 **ARAG that addresses the question of which contract**  
 13 **governs claims for payment following conversion?**  
 14 MR. MULLALY: I'm sorry, would you repeat  
 15 that, Isaac?  
 16 MR. RUIZ: Sure.  
 17 **Q (By Mr. Ruiz) After the plan is converted by**  
 18 **the individual and is being paid individually, is there**  
 19 **any document at ARAG that addresses whether the old**  
 20 **version controls or the new version controls?**  
 21 MR. MULLALY: Object. Out of scope.  
 22 You can answer.  
 23 A. The definitions in the benefit plan itself  
 24 stipulate how those are addressed by the insured event.  
 25 **Q (By Mr. Ruiz) Depending on when the insured**

41 (Pages 161 to 164)



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1 event arises?

2 A. Yes.

3 **Q. So for the Florida state court action, which**  
4 **contract governed?**

5 MR. MULLALY: Same objection.

6 You can answer.

7 A. The conversion plan.

8 **Q (By Mr. Ruiz) Are there any provisions that**  
9 **are different between the group legal insurance**  
10 **certificate and service plan and the UltimateAdvisor**  
11 **Conversion Plan that affected ARAG's coverage analysis?**

12 MR. MULLALY: Object. Out of scope.

13 You can answer.

14 A. No.

15 **Q (By Mr. Ruiz) Are there any provisions that**  
16 **are different between the group legal insurance**  
17 **certificate and service plan and the UltimateAdvisor**  
18 **Conversion Plan that affected ARAG's benefits decision?**

19 MR. MULLALY: Objection to form.

20 (Crosstalk)

21 MR. MULLALY: Objection. Out of scope.

22 You can answer.

23 A. No.

24 **Q (By Mr. Ruiz) Are there any provisions that**  
25 **are different between the two that affected ARAG's**

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1 actual insurance products that provide that.

2 **Q (By Mr. Ruiz) Is there another form of**  
3 **policy that Mr. McNae could have purchased other than**  
4 **this Ultimate Conversion Plan from ARAG?**

5 MR. MULLALY: Same objection.

6 A. No.

7 **Q (By Mr. Ruiz) If I wanted to -- and I don't.**  
8 **But if I wanted to buy a policy from ARAG, I'm not**  
9 **employed, Ruiz & Smart, my firm, doesn't provide it and**  
10 **I'm not employed by anybody who does, can I get -- can I**  
11 **buy insurance or apply to buy insurance from ARAG?**

12 MR. MULLALY: Objection. Out of scope.

13 You can answer.

14 A. No.

15 **Q (By Mr. Ruiz) We're on page 6 of the PDF of**  
16 **Exhibit 12. These are the definitions that apply to the**  
17 **conversion plan. Agreed?**

18 A. Yes.

19 **Q. Is there any other document that sets forth**  
20 **definitions that apply to the conversion plan?**

21 A. No.

22 **Q. If we go down to the definition of insured,**  
23 **okay, does ARAG agree that this is the definition of**  
24 **insured under the contract?**

25 A. Yes.

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1 attorney terminations?

2 MR. MULLALY: Same objections.

3 You can answer.

4 A. No.

5 **Q. (By Mr. Ruiz) We're still on Exhibit 12.**  
6 **Who drafted this contract?**

7 MR. MULLALY: Objection. Out of scope.

8 You can answer.

9 A. I don't know.

10 **Q (By Mr. Ruiz) Does any other insurance**  
11 **company use a form that is similar to this?**

12 MR. MULLALY: Same objection.

13 You can answer.

14 A. I don't know.

15 **Q (By Mr. Ruiz) Are there any other insurance**  
16 **companies that provide the same kinds of benefits of**  
17 **ARAG; namely, legal insurance?**

18 MR. MULLALY: Same objection.

19 You can answer.

20 A. Yes, I believe so.

21 **Q (By Mr. Ruiz) Who?**

22 MR. MULLALY: Same objection.

23 You can answer.

24 A. I'm aware of MetLife. But as far as  
25 insurance goes, I guess I don't know if there are other

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1 **Q. Both Mr. McNae and Mrs. McNae are insureds;**  
2 **true?**

3 A. Yes.

4 **Q. Then there's also a definition of insured**  
5 **event.**

6 **Do you see that?**

7 A. Yes.

8 **Q. And it says an insured event is: "An event**  
9 **covered by this policy whose initiation date will be**  
10 **considered the earlier of the date (a) written notice of**  
11 **a legal dispute is sent or filed by you or received by**  
12 **you or; (b) a ticket or citation is issued or; (c), an**  
13 **attorney is hired."**

14 **Did I read that correctly?**

15 A. Yes.

16 **Q. Then down below that same page, there's a**  
17 **definition of legal services; correct?**

18 A. Yes.

19 **Q. Legal services is defined as: "Time spent by**  
20 **your attorney and their office staff for your covered**  
21 **legal matters which does not include costs such as, but**  
22 **not limited to: filing fees, copy costs, mileage, title**  
23 **insurance, expert witnesses, mediator, home studies,**  
24 **transcriptionists, title search, and title abstracting."**

25 **Did I read that correctly?**

42 (Pages 165 to 168)

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1 A. Yes.

2 Q. Now let's go to page 8 of the PDF. Do you  
3 see the insurance agreement?

4 A. Yes.

5 Q. And the second paragraph reads: "You can  
6 choose a Network Attorney or Non-Network Attorney for  
7 legal services provided to you resulting from an insured  
8 event which occurs after your effective date and while  
9 your certificate of insurance is in effect. We will pay  
10 benefits for legal services up to the maximum amount  
11 listed in the benefits section of this policy."

12 Did I read that correctly?

13 A. Yes.

14 Q. We're on page 11 of the PDF now, still on  
15 Exhibit 12.

16 Do you see there's a section called "Relation  
17 of the Parties"?

18 A. Yes.

19 Q. And the first paragraph reads: "You have the  
20 unrestricted right to choose an attorney. The attorney  
21 is not our agent or employed by us or the policyholder.  
22 We and the policyholder shall at no time control or  
23 interfere with the performance of the attorney and we do  
24 not guarantee the skill of the attorney. Any payment to  
25 a network attorney for legal services is our

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1 up the deposition of network attorney. That's a defined  
2 term under this contract; right?

3 A. Yes, it is.

4 Q. Network attorney -- we're now on page 7 of  
5 the PDF -- means "an attorney with whom we have  
6 contracted to perform covered legal services in the  
7 United States for you and who has contracted with us to  
8 provide the specific covered legal services for which  
9 you are seeking assistance."

10 Did I read that correctly?

11 A. Yes.

12 Q. Is there any other definition of network  
13 attorney?

14 MR. MULLALY: Objection. Out of scope.  
15 You can answer.

16 Q (By Mr. Ruiz) Let me ask it another way.  
17 Are you aware of any other definition of  
18 network attorney at ARAG?

19 A. No.

20 Q. Ms. Casey was an attorney. Do you agree?

21 A. Yes.

22 Q. And Ms. Fotiu-Wojtowicz was also an attorney.  
23 Do you agree?

24 A. Yes.

25 Q. And with respect to both, ARAG had a contract

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1 responsibility up to your policy limits."

2 Did I read that correctly?

3 A. Yes.

4 Q. Who is the policyholder for purposes of this  
5 contract?

6 MR. MULLALY: Object. Out of scope.

7 You can answer.

8 A. I need to go back up and see the policyholder  
9 definition.

10 And then the declarations page.

11 It's the UltimateAdvisor Conversion Plan.

12 Q (By Mr. Ruiz) All right. So you agree that  
13 under this document, neither ARAG nor the  
14 UltimateAdvisor Conversion Plan will interfere or  
15 control the performance of the attorneys? Is that  
16 right?

17 A. Well, the policyholder is the UltimateAdvisor  
18 group. I'm...

19 Q. How about we say this: Does ARAG agree that  
20 ARAG shall, at no time, control or interfere with the  
21 performance of the attorney?

22 MR. MULLALY: Object. Out of scope.

23 You can answer.

24 A. Yes.

25 Q (By Mr. Ruiz) Why don't we do this and look

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1 with each. Right?

2 A. Yes.

3 Q. And the contract was for them to perform  
4 covered legal services in the country of the United  
5 States. Right?

6 MR. MULLALY: Object. Out of scope.

7 You can answer.

8 Q (By Mr. Ruiz) Correct?

9 A. Yes.

10 Q. Florida is in the United States; right?

11 A. Yes.

12 Q. And that contract was actually to perform  
13 covered legal services in the United States for the  
14 McNaes; right?

15 MR. MULLALY: Same objection.

16 You can answer.

17 A. Yes.

18 Q (By Mr. Ruiz) And right here in this  
19 definition where it talks about "you," that's talking  
20 about the McNaes; right?

21 A. Yes.

22 Q. And Ms. Casey and Ms. Fotiu-Wojtowicz, they  
23 contracted with "us," meaning ARAG, to provide the  
24 specific covered legal services for which the McNaes  
25 were seeking assistance; correct?



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1 MR. MULLALY: Same objection.  
 2 You can answer.  
 3 A. Yes.  
 4 **Q (By Mr. Ruiz) Is there any document at ARAG**  
 5 **that says that Ms. Casey or Ms. Fotiu-Wojtowicz were not**  
 6 **network attorneys during the time that they had a**  
 7 **contract with ARAG?**  
 8 MR. MULLALY: Same objection.  
 9 You can answer.  
 10 A. No.  
 11 **Q (By Mr. Ruiz) Does ARAG agree that during**  
 12 **the time that Ms. Casey and Ms. Fotiu-Wojtowicz, when**  
 13 **they had contracts with ARAG, that they were network**  
 14 **attorneys?**  
 15 MR. MULLALY: Same objection.  
 16 You can answer.  
 17 A. Yes.  
 18 **Q (By Mr. Ruiz) Does anyone at ARAG have a**  
 19 **different position than that?**  
 20 MR. MULLALY: Same objection.  
 21 You can answer.  
 22 A. No.  
 23 **Q (By Mr. Ruiz) And would you remind me what**  
 24 **the indemnity benefit is for network attorneys for the**  
 25 **defense of civil claims?**

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1 A. That it's paid in full.  
 2 **Q (By Mr. Ruiz) Right.**  
 3 **Is there anything in this document that says**  
 4 **paid in full means some other number?**  
 5 A. No.  
 6 **Q. Let's look at the other document. This is**  
 7 **Exhibit 12. Bates No. 1545.**  
 8 **Do you see it up on the screen?**  
 9 A. Yes.  
 10 **Q. What is the benefit for network attorneys in**  
 11 **the defense of civil damages claims?**  
 12 A. Paid in full.  
 13 **Q. Right.**  
 14 **Is there -- and in this document, is there**  
 15 **some other part of this document that says paid in full**  
 16 **actually means some other amount?**  
 17 MR. MULLALY: Object to form.  
 18 You can answer.  
 19 A. No.  
 20 **Q (By Mr. Ruiz) All right. So it's not true**  
 21 **that on November 19th, 2023, Mr. McNae or Mrs. McNae had**  
 22 **exhausted their network attorney benefit; right?**  
 23 MR. MULLALY: Objection to the form.  
 24 You can answer.  
 25 A. I guess I'm unclear as to having communicated

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1 MR. MULLALY: Objection to form.  
 2 You can answer.  
 3 A. I don't recall offhand without seeing the  
 4 schedule.  
 5 **Q (By Mr. Ruiz) It's unlimited, isn't it?**  
 6 MR. MULLALY: Objection to form.  
 7 You can answer.  
 8 **Q (By Mr. Ruiz) I'll show you. You don't have**  
 9 **to answer yet. Let me show you first.**  
 10 **I'm going to show you in both documents.**  
 11 **Let's start with Exhibit No. 11.**  
 12 MR. MULLALY: I don't mean to interrupt you,  
 13 Isaac. I think Exhibit 11 might be the certificate for  
 14 the 2024 policy here.  
 15 MR. RUIZ: Well, I'm going to show her both.  
 16 **Q (By Mr. Ruiz) So let's go to Exhibit No. 11**  
 17 **and let's go to Bates No. 1636.**  
 18 **Let's see the section called "Defense of**  
 19 **Civil Damage Claims Legal Services for an insured"? Do**  
 20 **you see that?**  
 21 A. Yes.  
 22 **Q. And what does it say the benefit is for**  
 23 **network attorneys?**  
 24 MR. MULLALY: Object to form.  
 25 You can answer.

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1 that the network attorney benefit was exhausted.  
 2 **Q (By Mr. Ruiz) All right. Well, you tell me.**  
 3 **Did ARAG think that on November 19th, 2020 -- well,**  
 4 **strike that.**  
 5 **Did ARAG ever believe that as of November**  
 6 **20th, 2023, either of the McNaes had exhausted their**  
 7 **network attorney benefit?**  
 8 MR. MULLALY: Objection. Out of scope.  
 9 You can answer.  
 10 A. No.  
 11 **Q (By Mr. Ruiz) Because, in fact, they had**  
 12 **not. Right?**  
 13 A. Correct.  
 14 **Q. And on November 19th, 2023, they hadn't --**  
 15 **they had two network attorneys. One of them -- each one**  
 16 **had a network attorney working for them. Right?**  
 17 MR. MULLALY: Objection to form. Objection.  
 18 Out of scope.  
 19 You can answer.  
 20 A. Yes.  
 21 MR. RUIZ: I think we -- I'm hearing some  
 22 noises. So whoever is making some vulnerable noises,  
 23 maybe go mute.  
 24 **Q (By Mr. Ruiz) Back on Exhibit 12, Bates No.**  
 25 **1625. Do you agree that these are the exclusions in the**

44 (Pages 173 to 176)

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1 agreement?

2 A. This looks like one set of exclusions.

3 Q. I'm only seeing four. Are there any other  
4 exclusions?

5 MR. MULLALY: Object. Outside of scope.  
6 You can answer.

7 A. Well, there is the UltimateAdvisor -- okay.

8 Q (By Mr. Ruiz) It's Exhibit 12. I promise I  
9 will also show you Exhibit No. 11, but let's go through  
10 one at a time.

11 A. Okay. Yes, those are the exclusions.

12 Q. There are four of them; right?

13 A. Yes.

14 Q. Now, again, for clarity, let's say that there  
15 are three cases: a federal case against Will McNae, a  
16 federal case against Ronda McNae, and a state case  
17 against Will McNae.

18 Can we agree to that?

19 A. Yes.

20 Q. And which exclusions does ARAG say apply to  
21 the McNaes' claims for benefits? Just give me the  
22 numbers.

23 MR. MULLALY: Objection to form.

24 You can answer.

25 A. 2 and 3. I'm...

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1 Q (By Mr. Ruiz) You don't know? You don't  
2 know?

3 A. No, not an individual --

4 MR. MULLALY: Object to form.  
5 (Crosstalk)

6 MR. MULLALY: I'd like to note for the record  
7 that this is the service plan.

8 MR. RUIZ: I'm going to show her both  
9 documents. You can note it for the record, but I'm  
10 going to show her both, don't you worry.

11 Q (By Mr. Ruiz) Ms. Adams, you don't know the  
12 specific person who made the determination that  
13 exclusion number 2 applied?

14 MR. MULLALY: Object to form.  
15 You can answer.

16 A. No.

17 Q (By Mr. Ruiz) All right. Who are all the  
18 people who, together, made that decision?

19 MR. MULLALY: Object to form. Object. Out  
20 of scope.

21 A. I don't know who all the people are.

22 Q (By Mr. Ruiz) Okay. So which part of  
23 exclusion 2 do you say applies?

24 MR. MULLALY: Object to form. Object. Out  
25 of scope. There are no topics about the service plan.

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1 From this list, 2. I was -- that's why I was  
2 wanting to make sure I had the correct set of exclusions  
3 in front of me.

4 Q (By Mr. Ruiz) Okay. Let's look at number 2,  
5 then. Who made the determination that exclusion number  
6 2 applied?

7 MR. MULLALY: Objection to form.

8 Can I ask the Bates number of this page,  
9 Isaac?

10 MR. RUIZ: 1625 of Exhibit 12.

11 Q (By Mr. Ruiz) Ms. Adams, who made the  
12 determination that exclusion number 2 applied?

13 MR. MULLALY: Is it 1629? Because --

14 MR. RUIZ: 1625.

15 MR. MULLALY: Okay.

16 Q (By Mr. Ruiz) See at the bottom here?

17 MR. MULLALY: Of -- I'm sorry, can you scroll  
18 down to the bottom again? I apologize.

19 MR. RUIZ: Well, just what I told you. 1625.

20 Q (By Mr. Ruiz) Now, let me ask the question  
21 again, Ms. Adams.

22 Who at ARAG made the determination that  
23 exclusion number 2 applied?

24 A. I don't know.

25 MR. MULLALY: Objection to form.

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1 Q (By Mr. Ruiz) You can answer, ma'am.

2 A. Well, with this being the service plan, I'm  
3 not sure that this is the --

4 Q. Well, why don't we --  
5 (Crosstalk)

6 Q. You take direction quite well from your  
7 attorney. But let me -- let me just show you the other  
8 document, then. Why -- I mean, I'm not trying to trick  
9 you.

10 Here we are. Exhibit No. 11, Bates No. 1654.

11 And do you see that there are four  
12 exclusions?

13 A. Yes.

14 Q. All right. Now, which exclusions does ARAG  
15 say apply?

16 A. 2, 3, and 4.

17 Q. Who made the determination that exclusion  
18 number 2 applied?

19 MR. MULLALY: Object to form.

20 You can answer.

21 A. I'm not sure.

22 Q (By Mr. Ruiz) All right. Well, who all was  
23 involved in making that decision?

24 MR. MULLALY: Object to form.

25 You can answer.

45 (Pages 177 to 180)

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1 A. I don't know who all was included in that.  
 2 **Q (By Mr. Ruiz) All right. Well, how about,**  
 3 **which one of these parts of exclusion 2 do you see**  
 4 **apply?**  
 5 A. Employee --  
 6 MR. MULLALY: Object to form.  
 7 You can answer.  
 8 Sorry.  
 9 THE WITNESS: Sorry.  
 10 MR. MULLALY: I'm objecting because this  
 11 is -- well, never mind.  
 12 Objection to form.  
 13 You can answer.  
 14 A. The employment matters exclusion would apply  
 15 to any of Mr. McNae's matters.  
 16 **Q (By Mr. Ruiz) Which other -- which other**  
 17 **part of exclusion 2?**  
 18 MR. MULLALY: Objection to form. Objection.  
 19 Out of scope.  
 20 You can answer.  
 21 A. I don't see anything else in exclusion 2.  
 22 **Q (By Mr. Ruiz) Okay. And explain to me why**  
 23 **the employment matters exclusion applies to the -- to**  
 24 **Mr. McNae's claims.**  
 25 MR. MULLALY: Same objections.

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1 **Q (By Mr. Ruiz) Have you ever heard those**  
 2 **words?**  
 3 A. I don't recall.  
 4 **Q. They're your words. They're your words in an**  
 5 **email that you wrote.**  
 6 **Let's ask -- let me ask you about number 3.**  
 7 **Who made the decision that exclusion number 3 applied?**  
 8 MR. MULLALY: Objection to form. Objection.  
 9 Out of scope.  
 10 You can answer.  
 11 A. I don't know.  
 12 **Q (By Mr. Ruiz) Who all was involved in making**  
 13 **that decision?**  
 14 A. I don't know.  
 15 **Q. All right. So which part of these applies to**  
 16 **the case?**  
 17 MR. MULLALY: Same objections.  
 18 You can answer.  
 19 A. Personal injury.  
 20 **Q (By Mr. Ruiz) All right. Is personal injury**  
 21 **defined by this agreement?**  
 22 MR. MULLALY: Same objections.  
 23 You can answer.  
 24 A. It is not.  
 25 **Q (By Mr. Ruiz) What research has -- well,**

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1 You can answer.  
 2 A. The Complaint from the plaintiff is referring  
 3 to the business relationship as well as alleged  
 4 communications from Mr. McNae to his then-employer,  
 5 Microsoft, as part of the basis of that lawsuit.  
 6 **Q (By Mr. Ruiz) Anything else?**  
 7 MR. MULLALY: Out of scope. Objection to  
 8 form.  
 9 You can answer.  
 10 A. No, I don't think so.  
 11 **Q (By Mr. Ruiz) Isn't it true that the**  
 12 **reference in the case to employment was simply a part of**  
 13 **the description of how these people met and not an**  
 14 **integral part of the lawsuit?**  
 15 MR. MULLALY: Objection to form.  
 16 You can answer.  
 17 A. I believe the Complaint alleged that  
 18 Mr. McNae had sent some communications to his employer  
 19 about the handling of the matter by Microsoft.  
 20 **Q (By Mr. Ruiz) Do you know where I'm getting**  
 21 **those words that the reference to employment is simply a**  
 22 **part of the description of how these people met and not**  
 23 **an integral part of the current lawsuit?**  
 24 MR. MULLALY: Objection to form.  
 25 You can answer.

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1 **strike that.**  
 2 **How does ARAG define personal injury?**  
 3 MR. MULLALY: Out of scope.  
 4 You can answer.  
 5 A. Personal injury would include --  
 6 **Q (By Mr. Ruiz) One second. One second. I'm**  
 7 **not asking for your personal testimony. I'm asking for**  
 8 **ARAG's testimony. So let me back up.**  
 9 **Is there any document at ARAG that discusses**  
 10 **the meaning of personal injury?**  
 11 MR. MULLALY: Objection. Out of scope.  
 12 You can answer.  
 13 A. No.  
 14 **Q (By Mr. Ruiz) Were you the person who made**  
 15 **the determination that the personal injury exclusion**  
 16 **applied?**  
 17 A. No.  
 18 **Q. And you didn't talk to whoever made that**  
 19 **decision; right?**  
 20 A. No.  
 21 **Q. Have you looked -- have you seen any document**  
 22 **inside of ARAG that examines whether or not the personal**  
 23 **injury exclusion applies?**  
 24 A. No.  
 25 **Q. Are you aware of anyone at ARAG who, up until**

46 (Pages 181 to 184)

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1 this moment, has articulated a definition of what  
2 personal injury means in the context of this exclusion?

3 A. I'm not aware of a -- of a company stance  
4 on -- on that definition at this time.

5 Q. And did you research what personal injury  
6 might mean, say, in a dictionary?

7 A. I -- yeah, I imagine I have.

8 Q. Well, do you -- don't imagine. Please don't  
9 imagine. I need to know what you specifically remember,  
10 because whatever you answer, I'm going to ask you for  
11 the details.

12 Do you have specific recollection of  
13 researching what personal injury means in the context of  
14 this exclusion?

15 MR. MULLALY: Objection. Out of scope.

16 You can answer.

17 A. Yes.

18 Q (By Mr. Ruiz) Okay. Tell me exactly when  
19 you did that.

20 A. I don't know.

21 MR. MULLALY: Same objection.

22 Q (By Mr. Ruiz) Did you do it in getting ready  
23 for today's deposition?

24 A. No.

25 Q. Did you do it in connection with the McNae

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1 that, would be just based on my own personal search.

2 Q (By Mr. Ruiz) All right. Personal search --  
3 but you haven't searched for the McNae claim; right?

4 A. No.

5 Q. What -- tell me the book, then, that you  
6 searched so I can go check.

7 MR. MULLALY: Objection. Out of scope.

8 You can answer.

9 A. Google.

10 Q (By Mr. Ruiz) Google. Right. Okay.  
11 So what page inside of Google did you pick?  
12 I mean, if I look in Google, I'll get 10,000 things.

13 MR. MULLALY: Same objection. Objection to  
14 form.

15 You can answer.

16 A. I don't remember.

17 Q (By Mr. Ruiz) When did you do the Google  
18 search?

19 A. I don't remember.

20 MR. MULLALY: Same objections.

21 Q (By Mr. Ruiz) Was it within the last year?

22 MR. MULLALY: Same objections.

23 You can answer.

24 A. Yes.

25 Q (By Mr. Ruiz) Okay. And what was your

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1 claim?

2 A. No.

3 Q. And since you never talked to whoever made  
4 the decision, you don't know what definition they  
5 applied to personal injury; right?

6 MR. MULLALY: Objection to form.

7 You can answer.

8 A. No.

9 Q (By Mr. Ruiz) Can you point to a single  
10 document at ARAG that says this is what personal injury  
11 means in the context of exclusion number 3?

12 MR. MULLALY: Objection. Out of scope.

13 You can answer.

14 A. No.

15 Q (By Mr. Ruiz) Are you aware of any document  
16 in which ARAG explained what personal injury means to  
17 the McNaes?

18 A. No.

19 Q. All right. And so when you are going to tell  
20 me what the definition of personal injury means, where  
21 does that definition come from, so I can go look?

22 MR. MULLALY: Objection. Out of scope.

23 You can answer.

24 A. Definition of personal injury, since we've  
25 established that I don't have a document to show you

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1 search query?

2 MR. MULLALY: Same objections.

3 You can answer.

4 A. I don't remember.

5 Q (By Mr. Ruiz) Okay. Did you type in the  
6 language from this exclusion and ask Google what it  
7 meant?

8 MR. MULLALY: Same objections.

9 You can answer.

10 A. No.

11 Q (By Mr. Ruiz) Tell me the exact definition  
12 Google gave you.

13 MR. MULLALY: Same objections.

14 You can answer.

15 A. I don't know.

16 Q (By Mr. Ruiz) ARAG is not going to deny  
17 coverage based on a Google search; right?

18 A. No.

19 Q. Right. So then we can move on.  
20 Mr. Fitzgerald's case against the McNaes,  
21 ARAG takes the position that it's a personal injury  
22 case?

23 MR. MULLALY: Objection. Out of scope.

24 You can answer.

25 A. There's a possibility that the personal

47 (Pages 185 to 188)

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1 injury exclusion applies. That's why we include it in  
2 the reservation of rights.

3 **Q (By Mr. Ruiz) I'm asking a different**  
4 **question.**

5 **Does ARAG take the position that**  
6 **Mr. Fitzgerald is bringing personal injury claims**  
7 **against the McNaes?**

8 MR. MULLALY: Objection. Out of scope.

9 You can answer.

10 A. Yes.

11 **Q (By Mr. Ruiz) Okay. What are those claims?**

12 MR. MULLALY: Same objection.

13 You can answer.

14 A. In the -- was this -- was your question  
15 specific to one of the cases?

16 **Q (By Mr. Ruiz) Any of them. Tell me which**  
17 **claims Mr. Fitzgerald has brought that are personal**  
18 **injury claims. Because this isn't a car accident or**  
19 **anything like that. It's something different.**

20 **So tell me, which specific claims are**  
21 **personal injury claims?**

22 MR. MULLALY: Objection to form. Objection.  
23 Out of scope.

24 You can answer.

25 A. Claims for the damages related to libel and

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1 Out of scope.

2 You can answer.

3 A. Yes.

4 **Q (By Mr. Ruiz) You don't know who made that**  
5 **decision; right?**

6 MR. MULLALY: Same objections.

7 You can answer.

8 A. No, I don't.

9 **Q (By Mr. Ruiz) So if you don't know who made**  
10 **the decision, how do you know that that decision has**  
11 **been made?**

12 MR. MULLALY: Same objections.

13 You can answer.

14 A. Because I read the letter that was sent.

15 **Q (By Mr. Ruiz) Other than reading the**  
16 **reservation of rights letter -- which we just went over.**  
17 **Right? We looked at it. Correct?**

18 **Do you agree that we looked at that**  
19 **reservation of rights letter a few minutes ago?**

20 MR. MULLALY: Objection to form.

21 You can answer.

22 A. Yes.

23 **Q (By Mr. Ruiz) Right. So other than reading**  
24 **that January 3rd letter, what other information do you**  
25 **have relating to exclusions?**

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1 reputation that has been suffered according to his  
2 Complaint.

3 **Q (By Mr. Ruiz) Okay. What else?**

4 MR. MULLALY: Same objections.

5 You can answer.

6 A. There are other claims for the impact on  
7 Mr. Fitzgerald's personal relationships.

8 **Q (By Mr. Ruiz) What else?**

9 MR. MULLALY: Same objections.

10 You can answer.

11 A. I don't recall the other specific requests.

12 **Q (By Mr. Ruiz) When was the first time ever**  
13 **that ARAG sent a reservation of rights letters -- letter**  
14 **to either of the McNaes?**

15 A. That occurred at the time that the first  
16 attorney was contracted with for Ronda McNae's case.

17 **Q. And when was the first time that ARAG said it**  
18 **might rely on exclusions 2, 3, or 4?**

19 MR. MULLALY: Objection to form.

20 You can answer.

21 A. I'm not sure which communications  
22 specifically cited those.

23 **Q. Is it ARAG's position that all of**  
24 **Mr. Fitzgerald's claims are personal injury claims?**

25 MR. MULLALY: Objection to form. Objection.

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1 A. I'm not sure what you mean by other  
2 information relating to exclusions.

3 **Q. Well, you understand that a Rule 30(b)(6)**  
4 **deposition is aimed at getting all of the information**  
5 **that's reasonably available to the company; right?**

6 **And so just to be honest with you, my**  
7 **expectation would have been that you would have seen**  
8 **that letter and then you would have actually had**  
9 **conversations with people to find out the information**  
10 **that ARAG has on -- you know, that led it to make that**  
11 **decision.**

12 **Besides reading the January 3rd, 2024**  
13 **reservation of rights letter, have you done any work to**  
14 **understand what ARAG's position is with respect to the**  
15 **exclusions?**

16 MR. MULLALY: Objection to form.

17 You can answer.

18 A. We had discussion about exclusions in the  
19 meetings that I previously mentioned with counsel.

20 **Q (By Mr. Ruiz) But counsel's already told you**  
21 **you can't tell me about those, at least not advice that**  
22 **you received from your attorneys, unless he says you can**  
23 **do that right now. But I'm not going to expect him to**  
24 **do it.**

25 **So I'm talking about information that you**

48 (Pages 189 to 192)



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1 received from folks inside of ARAG. Besides that  
2 January -- that January 2024 reservation of rights, is  
3 there any other information that you have relating to  
4 ARAG's position on exclusions?

5 MR. MULLALY: Objection to form.  
6 You can answer.

7 A. No.

8 Q (By Mr. Ruiz) So if I wanted to know all the  
9 facts that ARAG has in support of those exclusions, I  
10 should just read that letter; right?

11 MR. MULLALY: Objection to form. Object.  
12 Outside of scope.

13 You can answer.

14 A. I'm not sure what I'm answering.

15 Yes, you can read that letter.

16 Q (By Mr. Ruiz) Is there any information you  
17 have about the decision to rely on those exclusions  
18 besides what's in that letter?

19 A. No.

20 Q. That's what I meant by my question.

21 Let me ask you about exclusion number 4.  
22 Legal services deemed by us to be frivolous or lacking  
23 in merit.

24 Okay. Which part of exclusion number 4 does  
25 ARAG say applies to the McNaes?

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1 Q. Anything else?

2 A. Not that I'm aware of.

3 Q. No one from ARAG called Ms. Casey to get a  
4 better understanding of what was being done to pursue  
5 resolution in the case. Agreed?

6 A. Not that I'm aware of.

7 Q. And no one called or reached out to  
8 Ms. Fotiu-Wojtowicz to find out, you know, to have full  
9 understanding of what was being done to pursue  
10 resolution in the case. Agreed?

11 MR. MULLALY: Object to form.

12 You can answer.

13 A. Again, not that I'm aware of.

14 Q (By Mr. Ruiz) Right. No mediator will  
15 ever guarantee that the mediation will result in a  
16 settlement. Do you agree?

17 A. Yes, I agree.

18 Q. Do you know how many mediations I have that  
19 result in a settlement on the day of mediation? What  
20 percentage?

21 MR. MULLALY: Object to form.

22 You can answer.

23 A. No, I don't.

24 Q (By Mr. Ruiz) All right. Just because I  
25 don't reach a settlement in a mediation, does that mean

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1 MR. MULLALY: Objection to form. Objection.  
2 Out of scope.

3 You can answer.

4 A. The very last portion of that.

5 Q (By Mr. Ruiz) It's just the piece that says  
6 that "in our reasonable belief, you are not actively and  
7 reasonably pursuing resolution in your case." Right?

8 A. Yes.

9 Q. Tell me everything that ARAG has done to  
10 investigate whether the McNaes are actively and  
11 reasonably pursuing resolution in their cases.

12 Don't hold back. I want to know everything  
13 that ARAG has done to investigate.

14 A. We reviewed the status updates from both  
15 attorneys that were providing invoices to ARAG, and  
16 based on that information that was provided, we agreed  
17 to provide payment for mediation, and following that,  
18 learning that the mediation was not successful in  
19 resolving the matter, came to understand that the  
20 statuses that had been provided to us contained what  
21 looked to be the possibility that settlement was being  
22 pursued by solicitation of a proposed settlement  
23 agreement and then later learned that that wasn't  
24 something that was ever likely to have been acceptable  
25 to both parties involved.

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1 that I'm not being reasonable in pursuing resolution of  
2 a case?

3 MR. MULLALY: Object to form.

4 You can answer.

5 A. No.

6 Q (By Mr. Ruiz) Why didn't ARAG just pick up  
7 the phone to talk to Ms. Casey or Ms. Fotiu-Wojtowicz?

8 MR. MULLALY: Object to form.

9 You can answer.

10 A. I don't know.

11 Q (By Mr. Ruiz) And why didn't somebody just  
12 send them an email? Because, you know, there were  
13 emails that went back and forth about bills. Why didn't  
14 somebody send Ms. Casey or Ms. Fotiu-Wojtowicz an email  
15 asking for a fuller understanding of what was being done  
16 to resolve the case?

17 MR. MULLALY: Objection to form. Objection  
18 to scope. There will be testimony under another topic  
19 about this.

20 A. I don't know.

21 Q (By Mr. Ruiz) Isn't that something that  
22 you've thought about before today's deposition?

23 MR. MULLALY: Objection. Outside of scope.

24 You can respond.

25 A. No.

49 (Pages 193 to 196)

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1 **Q (By Mr. Ruiz)** Isn't it something that  
 2 somebody at ARAG said, hey, why didn't we just call  
 3 Ms. Casey or Ms. Fotiu-Wojtowicz to fully understand  
 4 what was going on?  
 5 **Hasn't anyone said that inside of ARAG, ever?**  
 6 MR. MULLALY: Same objections.  
 7 You can answer.  
 8 A. Not that I'm aware of.  
 9 **Q (By Mr. Ruiz)** Isn't it possible that ARAG  
 10 got it wrong and that, in fact, Ms. Casey and  
 11 Ms. Fotiu-Wojtowicz were reasonably pursuing resolution  
 12 of the case?  
 13 MR. MULLALY: Objection to form.  
 14 You can answer.  
 15 A. I don't feel like that's a yes-or-no  
 16 question. I feel like there's always a chance that  
 17 someone can make an error.  
 18 **Q (By Mr. Ruiz)** Including ARAG.  
 19 MR. MULLALY: Objection to form.  
 20 You can answer.  
 21 A. Yes, that's --  
 22 (Crosstalk)  
 23 **Q (By Mr. Ruiz)** True?  
 24 Did anyone at ARAG reach out to the McNaes to  
 25 explore the connection between the claims that

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1 McNaes?  
 2 A. No.  
 3 **Q. Why not?**  
 4 MR. MULLALY: Objection to form. Objection.  
 5 Out of scope.  
 6 You can answer.  
 7 A. Requests for information would have been  
 8 forwarded to the attorneys that were representing them.  
 9 **Q (By Mr. Ruiz)** In that case, let me ask it  
 10 this way: Did you request any information from the  
 11 time -- well, did you -- did you convey any information  
 12 requests to the McNaes through their attorneys?  
 13 A. Not that I'm aware of.  
 14 **Q. Now, those attorneys were not representing**  
 15 **the McNaes against ARAG, were they?**  
 16 MR. MULLALY: Objection to form. Objection.  
 17 Out of scope.  
 18 You can answer.  
 19 A. No.  
 20 **Q (By Mr. Ruiz)** All right. And they made that  
 21 clear in a letter that was sent to ARAG; right? At  
 22 least one of them did.  
 23 MR. MULLALY: Objection to form.  
 24 You can answer.  
 25 A. Correct.

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1 Mr. Fitzgerald was bringing and Mr. McNae's employment?  
 2 A. No.  
 3 **Q. Why not?**  
 4 MR. MULLALY: Objection. Outside of the  
 5 scope. Objection to form.  
 6 You can answer.  
 7 A. I'm not sure.  
 8 **Q (By Mr. Ruiz)** Do you understand that an  
 9 insurance company is allowed to ask the insureds for  
 10 information that could be useful in a coverage  
 11 determination? Right?  
 12 A. Yes.  
 13 **Q. Right.**  
 14 **And -- but ARAG didn't do that here, did it?**  
 15 A. We did ask information from the McNaes --  
 16 **Q. When?**  
 17 (Crosstalk)  
 18 A. -- coverage.  
 19 **Q. When?**  
 20 A. When they called to request assistance with  
 21 locating an attorney.  
 22 **Q. At the beginning.**  
 23 **And then from the time that Ms. Casey and**  
 24 **Ms. Fotiu-Wojtowicz were hired through November 20th,**  
 25 **2023, did ARAG request any item of information from the**

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1 **Q (By Mr. Ruiz)** So why would you have  
 2 forwarded a coverage-related inquiry to the McNaes  
 3 through their attorneys?  
 4 A. The inquiry would have been for documentation  
 5 or information that the attorney would secure and  
 6 provide to us.  
 7 **Q. And ARAG could have done that; right?**  
 8 A. Yes.  
 9 **Q. And, yet, ARAG did not do that; right?**  
 10 MR. MULLALY: Objection to form.  
 11 You can answer.  
 12 A. I'm not certain, over the course of the  
 13 multiple invoices, what requests we might have made  
 14 specifically.  
 15 **Q (By Mr. Ruiz)** What documents exist at ARAG  
 16 that guide adjusters in applying exclusion number 2?  
 17 A. We would need to look at the -- I believe the  
 18 coverage administration guide may cover that.  
 19 **Q. But you don't know?**  
 20 A. I would need to look at the document.  
 21 **Q. Any other document that might cover it?**  
 22 A. No.  
 23 **Q. Do you agree that the McNaes were not sued by**  
 24 **Microsoft?**  
 25 MR. MULLALY: Objection to form. Object. Out

50 (Pages 197 to 200)



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1 of scope.

2 You can answer.

3 A. I'm not aware of Microsoft having filed a  
4 lawsuit against the McNaes.

5 **Q (By Mr. Ruiz) And do you agree that the  
6 McNaes did not sue Microsoft?**

7 MR. MULLALY: Same objections.

8 You can answer.

9 A. Correct. I'm not aware of them having sued  
10 Microsoft.

11 **Q (By Mr. Ruiz) And Mr. Fitzgerald has not  
12 alleged a breach of any employment contract; correct?**

13 MR. MULLALY: Same objections.

14 You can answer.

15 A. Correct.

16 **Q (By Mr. Ruiz) And no one alleges employment  
17 discrimination; correct?**

18 MR. MULLALY: Same objections.

19 You can answer.

20 A. Correct.

21 **Q (By Mr. Ruiz) Didn't Mr. Fitzgerald simply  
22 refile some of the claims that had been -- that had been  
23 dismissed without prejudice in -- when he did the  
24 federal court -- strike that.**

25 **Doesn't ARAG agree that Mr. Fitzgerald's**

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1 A. Yes.

2 **Q. What changed between the start of 2023 and  
3 the end of 2023 that led ARAG to invoke exclusion number  
4 2?**

5 MR. MULLALY: Objection to form. Objection.  
6 Scope.

7 You can answer it.

8 A. What changed was that there were other  
9 individuals that had a moment to take a look at the case  
10 and review what had been done with it.

11 **Q (By Mr. Ruiz) Who were -- give me the names.  
12 Who were those other individuals?**

13 A. Ann Cosimano.

14 **Q. Who else?**

15 A. What was the end date that you had said for  
16 this question?

17 **Q. The end of -- the end of 2023.**

18 **What happened between the beginning of 2023  
19 when you wrote that email and the end of 2023?**

20 MR. MULLALY: Objection to form.

21 You can answer.

22 A. I don't recall when -- so I'll go with Ann at  
23 this point, because I don't recall some of the specific  
24 dates.

25 **Q. Anyone else look at it?**

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1 **Florida state court action is a refile of some of the  
2 claims that had been dismissed by the federal court?**

3 MR. MULLALY: Objection to form. Objection.  
4 Scope.

5 You can answer.

6 A. Yes, some of the claims are the same.

7 **Q (By Mr. Ruiz) Some of the claims that ARAG  
8 had previously agreed there was coverage for. Right?**

9 MR. MULLALY: Same objections.

10 You can answer.

11 A. Yes.

12 **Q (By Mr. Ruiz) And when you looked at the  
13 federal court complaint with respect to William McNae,  
14 you wrote that the reference to employment is simply  
15 part of the description of how these people met and not  
16 an integral part of the current lawsuit; right?**

17 MR. MULLALY: Objection to form.

18 You can answer.

19 A. Yes.

20 **Q (By Mr. Ruiz) Those were your words to  
21 Cathie -- to Cathie Kyle on January 23rd, 2023; right?**

22 A. Yes.

23 MR. MULLALY: Objection. Form.  
24 (Crosstalk)

25 **Q (By Mr. Ruiz) Yes?**

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1 A. That's what I can't say with certainty, what  
2 the -- the dates that you've mentioned.

3 **Q. So did Ms. Cosimano say come talk to  
4 (inaudible) decision in my deposition (inaudible) we had  
5 previously --**

6 THE COURT REPORTER: Sorry, Isaac. I don't  
7 know if it's my internet, but you froze like twice  
8 there. Can you start over?

9 MR. RUIZ: I'm sorry.

10 **Q (By Mr. Ruiz) Did anyone come talk to you  
11 about your January 3rd, 2023 email when ARAG was  
12 changing its position on coverage?**

13 A. No.

14 MR. MULLALY: Object to form.

15 **Q (By Mr. Ruiz) What was the answer?**

16 A. The answer was "no."

17 **Q. Why not?**

18 A. I don't know.

19 MR. MULLALY: Object --

20 **Q (By Mr. Ruiz) Well, let me -- let me put it  
21 on you now, then.**

22 **When you found out that the coverage decision  
23 changed, did you tell anybody: Hey, hold on. In  
24 January of 2023, I decided the opposite?**

25 **Did you say that to anybody?**

51 (Pages 201 to 204)

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1 A. No.  
 2 **Q. Why not?**  
 3 MR. MULLALY: Objection to form. Objection.  
 4 Out of scope.  
 5 You can answer.  
 6 A. Well, it became evident to me that my initial  
 7 interpretation of that was fairly narrow.  
 8 **Q (By Mr. Ruiz) Explain, please.**  
 9 MR. MULLALY: Objection to form.  
 10 You can answer.  
 11 A. The verbiage in that exclusion discusses  
 12 arising out of employment matters. And it -- that is a  
 13 fairly broad -- "arising out of" is more broad than  
 14 perhaps what I was originally thinking, which may have  
 15 been, you know, more directly -- I can't think of the  
 16 other phrase that might have applied. But in any case,  
 17 that "arising out of" is not as limiting as what my  
 18 initial thought was.  
 19 **Q (By Mr. Ruiz) You read it one way in January**  
 20 **of 2023 and then somebody else inside of ARAG, they're**  
 21 **saying they read it a different way at the end.**  
 22 **Is that fair?**  
 23 MR. MULLALY: Objection to form. Objection.  
 24 Scope.  
 25 You can answer.

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1 A. No.  
 2 **Q. How many years have you been in charge of**  
 3 **claims at ARAG since the beginning?**  
 4 A. Twelve.  
 5 **Q. Twelve years.**  
 6 **So you know the rule for how exclusions are**  
 7 **supposed to be read; right?**  
 8 MR. MULLALY: Objection to form.  
 9 You can answer.  
 10 **Q (By Mr. Ruiz) You were taught a long time**  
 11 **ago the rule that if there's an ambiguity in an**  
 12 **exclusion, it is construed in favor of the policyholder;**  
 13 **right?**  
 14 A. Yes.  
 15 **Q. You've known that rule from the beginning, 27**  
 16 **years. Right?**  
 17 A. Yes.  
 18 **Q. So did you tell anybody, remind anyone of**  
 19 **that rule, at any point during the handling of the McNae**  
 20 **claim?**  
 21 MR. MULLALY: Objection to form. Objection.  
 22 Scope.  
 23 You can answer.  
 24 A. No.  
 25 **Q (By Mr. Ruiz) Why not?**

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1 A. Yes.  
 2 **Q (By Mr. Ruiz) And at the beginning of**  
 3 **(inaudible) -- 26 years in the --**  
 4 THE COURT REPORTER: Sorry. My internet is  
 5 having issues. Everybody froze. Now I know it's me.  
 6 Sorry about that.  
 7 MR. RUIZ: Let me know when I can go.  
 8 THE COURT REPORTER: Yep.  
 9 MR. RUIZ: Can I go?  
 10 THE COURT REPORTER: Yes.  
 11 **Q (By Mr. Ruiz) In January of 2023, you were**  
 12 **reading the policies through the eyes of somebody who**  
 13 **had been in the insurance industry for 26 years; right?**  
 14 MR. MULLALY: Objection to form.  
 15 You can answer.  
 16 A. Yes.  
 17 **Q (By Mr. Ruiz) All right. And you were**  
 18 **reading it through the eyes of the person who's in**  
 19 **charge of claims at ARAG; correct?**  
 20 MR. MULLALY: Objection to form.  
 21 You can answer.  
 22 A. Yes.  
 23 **Q (By Mr. Ruiz) And you've been in charge for**  
 24 **six years?**  
 25 **Yes?**

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1 **(Crosstalk)**  
 2 **Q. I keep asking you that question. I'm**  
 3 **genuinely curious. Why didn't you?**  
 4 MR. MULLALY: Same objections.  
 5 You can answer.  
 6 A. The -- the choice of how to word provisions  
 7 in the benefit plan are heavily handled with our legal  
 8 team, and the intent of those things are also part of  
 9 how those are constructed.  
 10 So in a situation where my reading of it may  
 11 not have been in alignment with the intent or the  
 12 understanding of our legal counsel on how that applies,  
 13 I do trust that legal counsel will be able to redirect  
 14 if I make an error.  
 15 **Q (By Mr. Ruiz) Earlier you said you didn't**  
 16 **know who wrote the contract. Right?**  
 17 MR. MULLALY: Objection. Out of scope.  
 18 You can answer.  
 19 **Q (By Mr. Ruiz) You don't know who wrote this**  
 20 **contract; correct?**  
 21 A. Correct. Not specifically.  
 22 **Q. You don't know if any of these attorneys had**  
 23 **any involvement in writing this contract. Do you agree?**  
 24 MR. MULLALY: Same objections.  
 25 You can answer.

52 (Pages 205 to 208)

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1 A. I'm not clear. Which -- who --

2 **Q (By Mr. Ruiz) Any attorney. Can you give me**  
3 **the name of any attorney who was involved in writing the**  
4 **insurance contract?**

5 A. Oh.

6 MR. MULLALY: Same objections.

7 You can answer.

8 A. Yes. The content is created in part by Ann  
9 as our legal counsel, in addition to our product  
10 development team.

11 **Q (By Mr. Ruiz) Okay. So is there any**  
12 **document that explains within ARAG what the intention is**  
13 **behind these exclusions?**

14 A. No. Not that I've seen.

15 **Q. What does -- what have you been trained about**  
16 **whether -- when there's an undefined term in a policy,**  
17 **whether a legal definition should be applied versus the**  
18 **definition that an average purchaser of insurance would**  
19 **apply?**

20 **Have you been taught anything on that topic?**

21 MR. MULLALY: Objection. Out of scope.

22 You can respond.

23 A. The definition of undefined terms would be  
24 what a -- what a layperson would understand.

25 **Q (By Mr. Ruiz) Right. Not a lawyer; right?**

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1 was first sent quite some time ago, there was a  
2 requested amendment to the answer by ARAG and the  
3 amendment added a new defense relating to ERISA.

4 Of course, I'll let Mr. Mullaly characterize  
5 that if I've got it wrong.

6 And off the record, I raised the possibility  
7 of, you know, I do have a list of questions that kind of  
8 go to that defense, but I recognize that if we had  
9 served the deposition notice after the amendment, that I  
10 might have put in some topics that were more designed  
11 for that.

12 And so the request I have made is for the  
13 ability to send a new Rule 30(b)(6) deposition notice  
14 that's limited to just that defense and facts that  
15 relate to that defense and then come back at a later  
16 time with either this designee or some other designee to  
17 address those questions.

18 I can't imagine it would take very long to do  
19 that.

20 Mr. Mullaly?

21 MR. MULLALY: Sure. I understand where  
22 you're coming from. I think we can meet and confer on  
23 that.

24 I think, you know, certainly, you know, those  
25 issues are potentially -- you know, they're very likely

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1 MR. MULLALY: Same objection.

2 You can answer.

3 A. Correct.

4 **Q (By Mr. Ruiz) Right.**  
5 **And you were taught that 27 years ago when**  
6 **you got into the insurance industry; right?**

7 MR. MULLALY: Same objections.

8 You can answer.

9 A. Yes.

10 **Q (By Mr. Ruiz) And you've known it all along?**

11 MR. MULLALY: Same.

12 You can answer.

13 A. Yes.

14 MR. RUIZ: How long have we been going in  
15 this -- since we came back?

16 THE VIDEOGRAPHER: About an hour and a half.

17 MR. RUIZ: Okay. Let's take ten minutes.

18 THE VIDEOGRAPHER: Going off the record. The  
19 time now is approximately 3:15 p.m.

20 (Recess 3:15 p.m. to 3:28 p.m.)

21 THE VIDEOGRAPHER: Back on the record. The  
22 time now is approximately 3:28 p.m.

23 MR. RUIZ: Another administrative matter  
24 before we dive back into the questions.

25 So since this Rule 30(b)(6) deposition notice

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1 to be outside the scope of the things that we prepared  
2 Ms. Adams for, so I think that's probably the sensible  
3 approach.

4 You know, we'd want to talk about timing of  
5 that deposition, because I think all of us are looking  
6 for information still from Microsoft and I think we need  
7 to make sure that everyone's working from full  
8 information. But in principal, I think it makes sense  
9 to address those in a separate deposition.

10 MR. RUIZ: All right. I think you're right,  
11 Mr. Mullaly. And I know that a discovery conference has  
12 occurred on the Microsoft documents and I think it's --  
13 you know, I think it's in everybody's interests to have  
14 the record be full and accurate. And so we will  
15 continue that conversation next week after these  
16 depositions are done.

17 All right?

18 And I appreciate the -- I appreciate -- I  
19 appreciate your willingness to handle it this way. So  
20 thank you.

21 Back to the questions. I've uploaded another  
22 document into the chat, and here it is on the screen.  
23 Please mark this Exhibit No. 13. It's an ARAG claim  
24 form.

25 (Exhibit No. 13 introduced.)

53 (Pages 209 to 212)

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1 **Q (By Mr. Ruiz) Do you see that on your**  
 2 **screen, Ms. Adams?**  
 3 A. Yes. Would you mind magnifying that just a  
 4 little bit for me?  
 5 Thank you.  
 6 **Q. So there's a bunch of these in the discovery**  
 7 **production and I'm not going to ask you about all of**  
 8 **them. I'm just going to ask you about one.**  
 9 **Can you tell me what this is?**  
 10 A. Yes. This is a PDF of the ARAG claim form.  
 11 **Q. And what's the purpose of this kind of form?**  
 12 A. The purpose is to represent the claim that  
 13 was submitted by any -- any individual attorney to ARAG  
 14 for consideration.  
 15 **Q. I noticed that there seems to be an ARAG**  
 16 **claim form once a month for each attorney.**  
 17 **Does that make sense to you?**  
 18 A. Yes, it does.  
 19 **Q. So this would be one per monthly bill?**  
 20 A. Yes.  
 21 **Q. And who fills out the form?**  
 22 A. The form is filled out by the attorney  
 23 submitting their request.  
 24 **Q. Now, this form is provided to the attorney,**  
 25 **this attorney fills it out and sends it back to ARAG?**

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1 A. No. The -- this form is a PDF representation  
 2 of an online submission from the attorney.  
 3 **Q. And it gets filled out each month when the**  
 4 **attorney requests payment of benefits in the form of a**  
 5 **payment of their legal services?**  
 6 A. Yes. They fill that out every time.  
 7 **Q. Then what happens with this form inside of**  
 8 **ARAG after it's filled out?**  
 9 A. The information on this form is presented to  
 10 a claims specialist for review.  
 11 **Q. Then what happens?**  
 12 A. Then a decision is made by the claims  
 13 specialist about whether to approve or decline or  
 14 request more information.  
 15 **Q. If Mr. McNae had not converted his plan**  
 16 **and -- when he left Microsoft, would he be entitled to**  
 17 **keep getting benefits from ARAG going forward until his**  
 18 **case has ended or would --**  
 19 MR. MULLALY: Objection --  
 20 **Q (By Mr. Ruiz) -- or would the benefits end**  
 21 **once he was terminated?**  
 22 MR. MULLALY: Pardon me.  
 23 Objection to form and scope.  
 24 You can answer.  
 25 A. The benefits for Mr. McNae under his

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1 Microsoft plan would -- they do not end at the time that  
 2 his employment terminates.  
 3 **Q (By Mr. Ruiz) They do or they do not?**  
 4 A. They do not.  
 5 **Q. They do not end. So --**  
 6 A. They -- for the legal matter that -- that we  
 7 are currently paying claims for.  
 8 **Q. Understood.**  
 9 **So if he had been -- for that first lawsuit,**  
 10 **the federal court case, even if he had not converted, he**  
 11 **would still be entitled to the protections of the**  
 12 **policy?**  
 13 A. That is correct.  
 14 **Q. As long as those cases were ongoing?**  
 15 MR. MULLALY: Object to form.  
 16 You can answer.  
 17 A. Yes, that's right.  
 18 **Q (By Mr. Ruiz) Are there any documents at**  
 19 **ARAG that say that, that even after an employee is**  
 20 **terminated or ends their employment, that they continue**  
 21 **to be entitled to benefits from ARAG so long as that**  
 22 **case is going?**  
 23 MR. MULLALY: Objection to form.  
 24 You can answer.  
 25 A. I believe the benefit plan stipulates that.

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1 MR. RUIZ: Please mark this Exhibit 14.  
 2 (Exhibit No. 14 introduced.)  
 3 MR. MULLALY: This might be my error. Is  
 4 this, by chance, Exhibit 15 or have I just lost track  
 5 somehow?  
 6 MR. RUIZ: I thought we were on 14.  
 7 THE COURT REPORTER: Yeah, 14.  
 8 MR. MULLALY: Okay. My mistake. I'm sorry.  
 9 **Q (By Mr. Ruiz) Ms. Adams, do you agree that**  
 10 **this is an email exchange between Andrea Morse and**  
 11 **Cathie Kyle from May 30th, 2023?**  
 12 A. Yes.  
 13 **Q. And Andrea Morse, is that the chief financial**  
 14 **officer?**  
 15 A. Yes, at the time.  
 16 **Q. Is this a true and correct copy of the email**  
 17 **exchange?**  
 18 A. Yes, it is.  
 19 **Q. Now, have you ever had a conversation with**  
 20 **either Cathie Kyle or Andrea Morse about this email**  
 21 **exchange?**  
 22 A. No, I don't think so.  
 23 MR. RUIZ: Just so that everybody knows,  
 24 ignore the document I just uploaded to Zoom. That's not  
 25 going to be an exhibit, because it's already been

54 (Pages 213 to 216)

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1 marked.

2 Please mark this Exhibit 15.  
3 (Exhibit No. 15 introduced.)

4 **Q (By Mr. Ruiz) Ms. Adams, do you agree that**  
5 **this appears to be a Teams message?**

6 A. Yes.

7 **Q. Have you seen this document before?**

8 A. Yes.

9 **Q. Who was involved in this conversation?**

10 A. I see my name, so I am involved.

11 **Q. Who else?**

12 A. I can't tell who the other person is from  
13 this message.

14 **Q. Me neither.**

15 **What is this Teams message about?**

16 A. Well, this Teams message is about the  
17 adjudication of the claim there for William McNae.

18 **Q. Someone wrote to you on December 29th, 2023**  
19 **at 12:28 p.m.: "Also, after working with Ann, I have**  
20 **applied additional deductions to claim 15887433, for**  
21 **William McNae and sent it back to the committee queue.**  
22 **I think it is okay to move forward with, I sent it there**  
23 **first, just in case I should do anything else."**

24 **Did I read that correctly?**

25 A. Yes, you did.

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1 had some involvement with the claim. So my note there  
2 would be that the claim had been sent to legal and that  
3 we just needed to put a note -- an additional note on  
4 the -- on the claim record.

5 **Q. Why had it been sent to legal?**

6 **Well, strike that.**

7 **Who made the decision to send the claim to**  
8 **legal?**

9 A. If I recall correctly, the -- yeah. Once we  
10 had Ann and legal involved with this claim, future  
11 claims would also be referred for review.

12 **Q. Why was legal put on the claim to begin with?**

13 A. I don't recall.

14 **Q. Your next comment was that it had moved past**  
15 **committee. What does that mean?**

16 A. Oh. That's referring to within the claims  
17 system.

18 **Q. Is that the Complex Claims Committee?**

19 A. Yes.

20 **Q. And what does it mean when it says "Andrea's**  
21 **queue"?**

22 A. Once the claim has moved past the committee  
23 step, then because of the cumulative dollar amount that  
24 had been paid on this case, it goes to the CFO for  
25 financial approval for the payment transaction to be

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1 **Q. And looks like somebody applied a thumbs up**  
2 **emoji there to that message. Would that have been you?**

3 A. Yes.

4 **Q. What does that message mean?**

5 A. That means that the person reviewing this  
6 claim had some sort of communication with Ann and there  
7 were deductions identified that were applicable to that  
8 particular invoice.

9 **Q. Who is Ann?**

10 A. Ann Cosimano.

11 **Q. All right. And the deductions, it's**  
12 **referring to the attorney bills?**

13 A. Yes.

14 **Q. And then you responded not too much longer**  
15 **after that; right?**

16 A. Right.

17 **Q. You wrote: "When you get a chance, could**  
18 **you -- could you put in a brief claim comment to explain**  
19 **the direction on the McNae claim, since my last note**  
20 **said sent to Legal. Claim 15887433. Thanks."**

21 **Did I read that correctly?**

22 A. You did.

23 **Q. What did you mean?**

24 A. And this is December of '23.

25 By then, our -- Ann was involved -- or had --

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1 made.

2 MR. RUIZ: Please mark this Exhibit 16.  
3 (Exhibit No. 16 introduced.)

4 **Q (By Mr. Ruiz) Do you agree that this an**  
5 **email exchange that you had with Cathie Kyle on**  
6 **January 3rd, 2023?**

7 A. Yes.

8 **Q. And is this a true and correct copy of those**  
9 **emails?**

10 A. Yes.

11 **Q. Any reason to doubt the authenticity of this**  
12 **document?**

13 A. No.

14 MR. RUIZ: Please mark this Exhibit 17.  
15 (Exhibit No. 17 introduced.)

16 **Q (By Mr. Ruiz) I put this document together.**  
17 **It didn't get produced like this. They were produced in**  
18 **different places, looks like it's different printouts of**  
19 **things, but it all kind of looks the same.**

20 I'm scrolling through it really fast so you  
21 can see there's a lot of yellow in here.

22 I'm going to go ahead and take my time just  
23 so you can see graphically what this looks like.

24 **Is this looking familiar to you?**

25 A. Yes.

55 (Pages 217 to 220)



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1 **Q. What kind of documents are we looking at**  
 2 **here?**  
 3 A. These are screenshots of internal system  
 4 notes regarding this case.  
 5 **Q. All right. So is there a way to just get all**  
 6 **of the case comments printed out in order without having**  
 7 **to do these screenshots the way they've been produced?**  
 8 A. I'm -- yeah, I'm not sure...  
 9 **Q. Let me show you, give you an example of what**  
 10 **I'm dealing with here.**  
 11 **So this is page 1. It has some of that.**  
 12 **Do you see -- you can see this has been**  
 13 **pasted together. Can you tell?**  
 14 A. Yes.  
 15 **Q. All right. Do you know who did this?**  
 16 A. No.  
 17 **Q. All right. You didn't do it?**  
 18 A. No.  
 19 **Q. And you don't know if there's a way**  
 20 **technically to just print out all the notes just in one**  
 21 **giant PDF?**  
 22 A. Not -- no, I don't know.  
 23 **Q. Anyway, what -- remind me the name of the**  
 24 **computer system is that all this comes from.**  
 25 A. Well, the claims system is Pulse.

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1 **that date of the email that you had with Cathie Kyle**  
 2 **that I just showed you; right?**  
 3 A. Yeah. Yes.  
 4 **Q. And then November 20th, 2023 is the date that**  
 5 **the attorneys were terminated; right?**  
 6 MR. MULLALY: Objection to form.  
 7 You can answer.  
 8 A. Yes, that's right.  
 9 **Q (By Mr. Ruiz) All right. But is this saying**  
 10 **that there was no activity between January 3rd and**  
 11 **November 20th?**  
 12 MR. MULLALY: Objection to form.  
 13 You can answer.  
 14 A. I'm not -- I'm not sure if there was activity  
 15 between those dates.  
 16 **Q (By Mr. Ruiz) This is PDF page 22 of Exhibit**  
 17 **17. What is this from?**  
 18 A. Oh, that -- just a moment.  
 19 Could you scroll down just a little bit? Is  
 20 there anything additional at the bottom of this?  
 21 No.  
 22 Oh. This looks like -- well, I guess I have  
 23 to say that I don't use this particular view, so I can't  
 24 specifically say what this -- what this is.  
 25 **Q. Do you agree that here on PDF page 22 of**

Page 222

1 **Q. Is this from Pulse?**  
 2 A. No. The screen here is not.  
 3 **Q. What is this form?**  
 4 A. This is from Member Configurator.  
 5 **Q. What is Member Configurator?**  
 6 A. That is the system where our customer care  
 7 representatives can access plan member account  
 8 information and add notes about their interactions with  
 9 plan members.  
 10 **Q. Would there be any coverage information on**  
 11 **Member Configurator?**  
 12 A. Yes.  
 13 **Q. And if there's a coverage determination made,**  
 14 **is that something that goes in Member Configurator or**  
 15 **does it go somewhere else or both?**  
 16 A. That would be in here, yes.  
 17 **Q. So let's look at PDF page 2. And do you see**  
 18 **that there are entries for different dates?**  
 19 A. Yes.  
 20 **Q. And why are there no entries between January**  
 21 **3rd, 2023 and November 20th of 2023?**  
 22 MR. MULLALY: Objection to form.  
 23 You can answer.  
 24 A. I don't know.  
 25 **Q (By Mr. Ruiz) Well, January 3rd, 2023 is**

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1 **Exhibit 17, it says -- there's a list of -- it says**  
 2 **select plan? Do you see that?**  
 3 A. Yes.  
 4 **Q. Then there's the UltimateAdvisor Conversion**  
 5 **Plan, and it says that the effective date was October**  
 6 **1st, 2023. Agreed?**  
 7 A. Yes.  
 8 **Q. And that it is active. True?**  
 9 A. Yes.  
 10 **Q. And there was a previous plan, which is a**  
 11 **Microsoft Corporation plan; right?**  
 12 A. Yes.  
 13 **Q. And that that one was suspended as of**  
 14 **September 30th, 2023; is that right?**  
 15 A. Yes.  
 16 **Q. And the suspension reason was terminated**  
 17 **employment; do you agree?**  
 18 A. Yes.  
 19 **Q. Now, when was this document printed? Do you**  
 20 **know?**  
 21 A. No, I don't know.  
 22 **Q. Let's go to PDF page 32 now.**  
 23 **Do you see the red traffic light?**  
 24 A. Yes.  
 25 **Q. What does a red traffic light mean?**

56 (Pages 221 to 224)

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1 A. The red traffic light means that one of the  
2 rules within the rules engine behind that traffic light  
3 has a mismatch.

4 **Q. And so if you see a red traffic light, what  
5 does -- strike that.**

6 **Who at ARAG uses this view?**

7 A. The claims specialists use this view.

8 **Q. The folks who decide whether to pay?**

9 A. Yes.

10 **Q. And so what does the red light -- what is  
11 that meant to convey to the claims specialist?**

12 A. That is meant to convey that there is some  
13 sort of mismatch in data points or another alert to let  
14 them know that there's additional information they  
15 should be reviewing before making a decision.

16 **Q. And who decided to put a red traffic light  
17 here?**

18 MR. MULLALY: Object. Outside of scope.

19 You can answer.

20 A. The red traffic light is not decided by a  
21 person. It's based on the automation rules that run on  
22 all of the claims.

23 **Q. Page 35 of this exhibit.**

24 A. Could you make it larger? I'm sorry.

25 **Q. Oh, I wish I could.**

Page 227

1 A. Yes.

2 **Q. And it says description: Claim detail  
3 7266499 changed from submitted to pending for the action  
4 of transfer to another examiner for adjudication and  
5 reason of coverage question.**

6 THE COURT REPORTER: I can't see it because  
7 it's so small, and I can't hear what you're saying  
8 either.

9 MR. RUIZ: It's a small document.

10 THE COURT REPORTER: But maybe just speak up  
11 a little bit?

12 MR. RUIZ: I don't know what to do -- I'll  
13 also slow down.

14 **Q (By Mr. Ruiz) Ms. Adams, do you see the  
15 section called "Status History"?**

16 A. Yes.

17 **Q. And there's an action called "Claims Status  
18 Changed"; right?**

19 A. Yes.

20 **Q. And the description reads: "Claim detail  
21 7266499 changed from submitted to pending for the action  
22 of transfer to another examiner for adjudication and  
23 reason of coverage question.**

24 **Did I read that correctly?**

25 A. Yes.

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1 A. Okay.

2 **Q. I mean, it's -- it's a small -- do you see it  
3 now?**

4 A. Yeah. Well enough. Yeah.

5 **Q. It says Karissa -- there's a comment. Do you  
6 see the comment?**

7 A. I do, yes.

8 **Q. It says: I have a red light alert because of  
9 how much that has been paid out on this case. I wanted  
10 to make sure that it is okay to pay this. Per the  
11 notes, I believe we are good, but because of the light,  
12 I wanted to make sure.**

13 **Did I read that correctly?**

14 A. Yes.

15 **Q. That looks like it was written by somebody  
16 whose initials are JRB?**

17 A. It's -- oh. J -- it's JRE -- it's truncated  
18 there a bit, but...

19 **Q. It's Jamie-something-or-other; right?**

20 A. Jamie Rennie.

21 **Q. Jamie Rennie?**

22 A. Yes.

23 **Q. All right. And let's look at Bates No. 161.  
24 Do you see there's a section called "Claims Status  
25 History"?**

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1 **Q. What did that mean?**

2 A. That means that the person reviewing this  
3 claim wanted to consult with their supervisor on the  
4 claim.

5 **Q. Do we know what date?**

6 A. That -- if you go over to the right, is  
7 that...

8 Oh. I don't see it there. It almost looks  
9 like it was chopped off.

10 **Q. Right. I'm seeing the same thing as you.  
11 But you don't know the date?**

12 A. No.

13 **Q. Now, we're on page 195 of this PDF.  
14 Do you see that it says that his two claims  
15 are both in defense of civil damages?**

16 A. Yes.

17 **Q. We're talking about William McNae; right?**

18 A. Yes.

19 **Q. They're both in defense of civil damages;  
20 correct?**

21 A. Yes.

22 **Q. Now, interesting that the claim that Ronda  
23 McNae had for civil action defendant was closed.**

24 **Do you see that that's what it says?**

25 A. Yes, I see that.

57 (Pages 225 to 228)



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**Q. Can you explain what that means?**

MR. MULLALY: Objection. Outside of scope.  
You can answer.

A. This is coming from the Member Config application system, and I can't definitively say all of the reasons that a case status might change from open to closed.

**Q (By Mr. Ruiz) And down here, there's another -- the defense of civil damage loss date July 15th, 2022.**

**Do you see that?**

A. I do.

**Q. That's Mr. Fitzgerald's lawsuit against Ronda McNae; right?**

A. Yes.

**Q. And it says closed. Do you see that?**

A. Yes.

**Q. Do you know when this document was printed?**

A. No.

**Q. Is there any way to know based on this document?**

MR. MULLALY: Object to form.

You can answer.

A. I don't know if there's a way to tell.

**Q. Well, it must be after April 2nd, 2024,**

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A. Yes.

**Q (By Mr. Ruiz) And the loss date for that was November 2nd, 2023; correct?**

A. Yes.

**Q. And whenever that document was created, at that time, Ronda McNae's claims were closed. Agreed?**

MR. MULLALY: Objection to form. Objection.  
Scope.

You can answer.

A. The -- yes. The case status is indicating closed.

**Q (By Mr. Ruiz) This is Exhibit 2 again.**

**To the extent that these ARAG employees did anything on the McNae claim, were they acting on ARAG's behalf?**

A. Yes.

**Q. And everything they did was within the authority given to them by ARAG?**

MR. MULLALY: Objection. Outside of scope.

You can answer.

A. Yes.

**Q (By Mr. Ruiz) Does ARAG have any criticisms of any of the people mentioned in Exhibit No. 2?**

A. No.

**Q. Does ARAG stand by the work performed by**

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**because there's an open date of that date here.**

**Do you see that?**

A. Yes.

**Q. So whenever this was printed, it was printed after April 2nd of 2024. Agreed?**

A. Yes, I would agree.

**Q. So for the defense of civil damage claim that Mr. McNae has open, do you agree that according to this, ARAG opened that on April 2nd of 2024?**

MR. MULLALY: Objection to form.

You can answer.

A. Yes, that's -- that's what that means.

**Q (By Mr. Ruiz) Now, who enters that information?**

A. That information is generated by the system when the case is opened by customer care representative.

**Q. Somebody doesn't type it in, that's automatically generated when the claim is open?**

A. That's correct.

**Q. ARAG opened the claim for defense of a civil damage relating to the Florida state court case on April 2nd, 2024; right?**

MR. MULLALY: Object to form. Outside of scope.

You can answer.

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**these individuals?**

A. Yes.

**Q. What are the different systems that ARAG uses to disseminate policies, procedures, protocols, trainings, or other guidance or requirements to employees that relate to claims handling?**

A. We employ written guides, procedures, those types of manuals, in addition to either in-person or via Teams meetings with the individuals responsible for reviewing claims, and that that is done just within the claims department.

**Q. Is there an internal website where these policies, protocols, procedures, guidelines are kept?**

A. Yes.

**Q. What's that called?**

A. File Hold.

**Q. Any other website or service that's used to collect these -- these documents?**

A. No.

**Q. In the document that we looked at earlier, there was something called Knowledge Tree. What's Knowledge Tree?**

A. Knowledge Tree is part of the customer care process and represents the initial questions that are asked of someone requesting to use their benefit plan.

58 (Pages 229 to 232)

Page 233

MR. RUIZ: Please mark this Exhibit No. 18.  
(Exhibit No. 18 introduced.)

**Q (By Mr. Ruiz) This is another document that I created to keep me organized.**

**Does ARAG have any policies, protocols, or procedures relating to topic 1, the full, fair, and prompt investigation of claims arising under insurance policies?**

MR. MULLALY: Object to form.  
You can answer.

A. Yes.

**Q (By Mr. Ruiz) What are they?**

A. The documents? Is that the --

**Q. Yes. What are the documents -- what are the policies, protocols, procedures or trainings that ARAG has on the subject of full, fair, and prompt investigation of claims arising under insurance policies?**

A. Our coverage administration guide is intended to fulfill the fair investigation of claims with regards to the various coverages.

And we've also just inherently created within our claims system, Pulse, prioritization to allow claims to be handled in date-received order to ensure that they're being reviewed promptly.

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process claims for ARAG as well as the coverage administration guide. In conjunction, those would be the documents.

**Q (By Mr. Ruiz) Does ARAG have any policies, protocols, procedures or trainings relating to number 4, the exclusions relied upon by ARAG in this case?**

MR. MULLALY: Same objection.

You can answer.

A. The coverage administration guide addresses all of the coverages and lack of coverages in the benefit plan.

**Q (By Mr. Ruiz) Anything else?**

A. No.

**Q. Does ARAG have any policies, protocols, procedures, guidelines, or trainings relating to topic number 5, communication with insureds?**

A. No, I don't think so.

**Q. Does ARAG have any policies, protocols, procedures, guidelines or trainings relating to topic number 6, compliance with the Washington claims handling regulations?**

MR. MULLALY: Object to form. Objection.  
Scope.

You can answer.

A. This falls within that compliance department

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**Q. Anything else?**

A. No, I don't think so.

**Q. What does -- does ARAG have any policies, protocols, or procedures or trainings relating to the obligation of good faith generally?**

MR. MULLALY: Object to form.

You can answer.

A. With the issue of good faith, that's more inherently part of just how we do business on a daily basis. So there is no written document that describes how we go about doing that.

**Q (By Mr. Ruiz) What does good faith mean in the insurance world?**

MR. MULLALY: Objection. Out of scope.

You can answer.

A. Well, it involves your item number 1 on this list, including that full, fair, and prompt investigation of claims, and abiding by all of the terms of the benefit plan, or insurance policy as it may be.

**Q. Does ARAG have any policies, protocols, procedures or trainings relating to number 3, the handling of claims for legal services generally?**

MR. MULLALY: Objection to form.

You can answer.

A. Yes. We have guides that describe how to

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that I mentioned earlier that provides any updates regarding claims handling regulations as part of their responsibilities in the organization.

**Q (By Mr. Ruiz) Well, you know, in the -- we're limited in time and, you know, there's just -- we have to make choices in these depositions. I can't ask you about every document, but there's something called a Coverage Administration Guide, which you've already talked about.**

**You know what that is; right?**

A. Yes.

**Q. And at the end of that, I'm sure you know, there's a section on the California Code of Regulations. Did you know that?**

A. Yes.

**Q. And they quote the preamble from that. Is there any document in ARAG that sets out the Washington Administrative Code regulations?**

MR. MULLALY: Objection. Out of scope.  
Objection to form.

But you can answer.

A. No.

**Q (By Mr. Ruiz) And did the compliance department send any emails out or advisories or notices specifically addressing Washington regulations?**

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1 A. Not that I can recall.

2 **Q. Does ARAG have any policies, protocols,**  
3 **procedures, guidelines, or trainings relating to the**  
4 **rights of insureds under conversion plans?**

5 MR. MULLALY: Same objections.  
6 You can answer.

7 A. No, not -- not specifically.

8 **Q (By Mr. Ruiz) Are there any policies,**  
9 **protocols, procedures, guidelines, or trainings about --**  
10 **well, let's call it the Complex Claims Committee?**  
11 **Are there any?**

12 A. Yes. The involvement of that committee is  
13 outlined in the claims handling procedure documents.

14 **Q. Any other documents?**

15 A. No.

16 **Q. Does ARAG have any policies, procedures,**  
17 **protocols, guidelines, or trainings relating to topic 9,**  
18 **the termination of attorneys during active litigation?**

19 MR. MULLALY: Objection to scope and form.  
20 You can answer.

21 A. No.

22 MR. RUIZ: For the court reporter, I've  
23 uploaded a revised version of Exhibit 18. Please use  
24 that version. It's the one that I typed on here on the  
25 video.

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1 protocols, and procedures for saving money, cutting  
2 costs, including results or similar performance  
3 standards for the claims department, however described  
4 and whatever called.

5 **And topic 29 was: All documents regarding**  
6 **bonuses, compensation, incentives, or other incentives**  
7 **given or paid to claims representatives, claims**  
8 **managers, or their supervisors.**

9 **All right?**

10 A. (Witness nods head.)

11 **Q. And to make this more manageable, let's put a**  
12 **time frame on these questions. Let's say the beginning**  
13 **of 2022 to the present.**

14 **Okay?**

15 A. Okay.

16 **Q. Because the claim was first made in the year**  
17 **of 2022, right, by Ms. McNae?**

18 A. Yes.

19 **Q. So all of these questions, I just want you to**  
20 **know, I'm limiting it to that time frame, January 1st,**  
21 **'22 to the present.**

22 **Understood?**

23 A. Yes.

24 **Q. So what policies, protocols, or procedures**  
25 **have been in place at ARAG related to saving money on**

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1 **Q (By Mr. Ruiz) You know how a lot of times**  
2 **today when I ask you a question, you'll answer and I'll**  
3 **say, "Is there anything else?" You know, that kind of**  
4 **question I ask?**

5 A. Yes.

6 **Q. Yeah. You know, when we are getting trained**  
7 **as lawyers, we call those questions to make sure we**  
8 **exhaust the knowledge of the witness. We want to make**  
9 **sure we get everything.**

10 **And so I'm just looking at my notes, and one**  
11 **of the things that I -- on my assignment of to-dos that**  
12 **I wanted to cover with you was ARAG's interpretation and**  
13 **analysis of the exclusions that are applying to the**  
14 **subject claims.**

15 **And so have I exhausted the information that**  
16 **you have on the subject of the interpretation and**  
17 **analysis of the exclusions applicable to the subject**  
18 **claims?**

19 MR. MULLALY: Object to form.

20 You can answer.

21 A. Yes, I think so.

22 **Q (By Mr. Ruiz) So I want to talk to you about**  
23 **topics 28, 20, and 29. And I'm just going to read them**  
24 **out to you so you know what you are.**

25 **28 was: Any and all plans, policies,**

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1 **claims?**

2 MR. MULLALY: Object to form.

3 You can answer.

4 **Q (By Mr. Ruiz) If any.**

5 MR. MULLALY: Same objection.

6 You can answer.

7 A. We have employed some automation within the  
8 claims system to reduce manual tasks that claims  
9 specialist might otherwise have to do, and that allows  
10 us to move through more claims in a shorter period of  
11 time than we did otherwise.

12 **Q (By Mr. Ruiz) Anything else?**

13 A. Otherwise, we've made small -- also within  
14 the technology area, just small enhancements to achieve  
15 that same goal.

16 **Q. All right. Any other policies, protocols, or**  
17 **procedures that have been in place relating to saving**  
18 **money on claims?**

19 MR. MULLALY: Objection to form.

20 You can answer.

21 A. No.

22 **Q (By Mr. Ruiz) Or have there been any**  
23 **policies, protocols, or procedures related to improving**  
24 **results for the claims department?**

25 MR. MULLALY: Object to form.

60 (Pages 237 to 240)

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1 You can answer.  
 2 A. No, not beyond what I've just described as  
 3 far as technology and tool enhancements.  
 4 **Q (By Mr. Ruiz) Why did Mr. Murray take an**  
 5 **interest in the McNaes' claims?**  
 6 MR. MULLALY: Object to form. Object to  
 7 scope.  
 8 You can answer.  
 9 A. I don't know.  
 10 **Q (By Mr. Ruiz) Was there a danger that the**  
 11 **McNaes' insurance claims were going to bankrupt the**  
 12 **company or something?**  
 13 MR. MULLALY: Same objections.  
 14 You can answer.  
 15 A. No.  
 16 **Q (By Mr. Ruiz) That wasn't a worry, was it?**  
 17 MR. MULLALY: Same objection.  
 18 You can answer.  
 19 A. No.  
 20 **Q (By Mr. Ruiz) Was the McNae claim going to**  
 21 **make a difference between a profitable and an**  
 22 **unprofitable year for ARAG?**  
 23 MR. MULLALY: Same objections.  
 24 You can answer.  
 25 A. No.

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1 The answer is "yes." I apologize.  
 2 **Q (By Mr. Ruiz) So we're still talking about**  
 3 **that time period from January 1st, 2022 to the present.**  
 4 **Okay?**  
 5 A. Yes.  
 6 **Q. What policies, protocols, or procedures have**  
 7 **been in place -- had been in place, applying to the**  
 8 **claim department, for the purposes purpose of improving**  
 9 **the loss ratio for ARAG?**  
 10 MR. MULLALY: Same objections.  
 11 You can answer.  
 12 A. From a loss ratio perspective, I'm not aware  
 13 of any.  
 14 **Q (By Mr. Ruiz) How many years have you been**  
 15 **with the company?**  
 16 A. Twelve.  
 17 **Q. In those twelve years, we know that ARAG**  
 18 **terminated two attorneys for the stated reason that they**  
 19 **were not making reasonable efforts to resolve the**  
 20 **litigation. Right?**  
 21 A. Yes.  
 22 **Q. That's Ms. Casey and Ms. Fotiu-Wojtowicz.**  
 23 **Right?**  
 24 MR. MULLALY: Same objections.  
 25 You can answer.

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1 **Q (By Mr. Ruiz) Is the McNae claim the largest**  
 2 **claim -- strike that.**  
 3 **Are the two McNae claims together, are they**  
 4 **the largest claims ARAG has ever had?**  
 5 MR. MULLALY: Same objections.  
 6 You can answer.  
 7 A. I don't know.  
 8 **Q (By Mr. Ruiz) No one's told you that,**  
 9 **though; right?**  
 10 MR. MULLALY: Same objections.  
 11 You can answer.  
 12 A. No, no one has told me that.  
 13 **Q (By Mr. Ruiz) And what policies, protocols,**  
 14 **or procedures have been in place relating to improving**  
 15 **results for the claims department?**  
 16 MR. MULLALY: Objection to form.  
 17 You can answer.  
 18 A. Just the technology changes to allow us to  
 19 process more claims more efficiently. That result.  
 20 **Q (By Mr. Ruiz) Do you know what a loss ratio**  
 21 **is?**  
 22 A. Yes.  
 23 MR. MULLALY: Objection to form. Outside the  
 24 scope.  
 25 Sorry. But you can go ahead and answer.

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1 **Q (By Mr. Ruiz) Correct?**  
 2 A. Yes.  
 3 **Q. And, you know, earlier when you were talking**  
 4 **about it, you were saying that Ms. -- you were relying**  
 5 **on information from Ms. Casey, but is it ARAG's position**  
 6 **that both of the attorneys failed to make reasonable**  
 7 **efforts to resolve the case or just one of them?**  
 8 MR. MULLALY: Objection to scope.  
 9 You can answer.  
 10 A. Both of them.  
 11 **Q (By Mr. Ruiz) All right. So how many other**  
 12 **times in the twelve years that you've been working with**  
 13 **ARAG has ARAG terminated a network attorney for the**  
 14 **stated reason that they were not making reasonable**  
 15 **efforts to resolve the claim?**  
 16 MR. MULLALY: Objection to form and scope.  
 17 You can answer.  
 18 A. I'm not sure.  
 19 **Q (By Mr. Ruiz) Well, can you think of one**  
 20 **other one?**  
 21 **(Crosstalk)**  
 22 MR. MULLALY: Same objection.  
 23 **Q (By Mr. Ruiz) I'm going to ask you who it**  
 24 **is, but can you think of one other one besides the two**  
 25 **in our case?**

61 (Pages 241 to 244)



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1 MR. MULLALY: Same objections.  
 2 You can answer.  
 3 A. No, I don't -- I don't have any others to  
 4 tell you about.  
 5 **Q (By Mr. Ruiz) You've never heard of such a**  
 6 **thing; right?**  
 7 MR. MULLALY: Same objection.  
 8 You can answer.  
 9 A. No, I haven't.  
 10 **Q (By Mr. Ruiz) And so starting on November**  
 11 **21st, 2023, has ARAG done that to anybody else?**  
 12 MR. MULLALY: Same objections.  
 13 You can answer.  
 14 A. Not to my knowledge.  
 15 **Q (By Mr. Ruiz) So it's happened two times,**  
 16 **both times to the McNaes, and as far as you know, no**  
 17 **other times to anybody else; is that fair?**  
 18 MR. MULLALY: Same objections.  
 19 You can answer.  
 20 A. Yes, that's fair.  
 21 **Q (By Mr. Ruiz) Is Ms. Casey a good attorney?**  
 22 MR. MULLALY: Same objections.  
 23 You can answer.  
 24 A. I don't know.  
 25 **Q (By Mr. Ruiz) Now, did ARAG ask anyone to**

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1 **some plaintiffs are more unreasonable than others?**  
 2 MR. MULLALY: Same objection.  
 3 You can answer.  
 4 A. Yes, that seems fair.  
 5 **Q (By Mr. Ruiz) All right. And ARAG**  
 6 **understood that the case that Mr. Fitzgerald brought was**  
 7 **very personal to Mr. Fitzgerald, based on what the**  
 8 **allegations were. Agreed?**  
 9 MR. MULLALY: Objection to scope and  
 10 speculation.  
 11 You can answer.  
 12 A. Yes, the Complaint contained some personal  
 13 matters.  
 14 **Q (By Mr. Ruiz) All right. And similarly, it**  
 15 **must have been very personal to the McNaes based on what**  
 16 **was being alleged. Agreed?**  
 17 MR. MULLALY: Same objection.  
 18 You can answer.  
 19 A. Yes, that seems accurate.  
 20 **Q (By Mr. Ruiz) Does ARAG agree that there was**  
 21 **more than just money on the line in the federal court**  
 22 **litigation?**  
 23 MR. MULLALY: Same objections.  
 24 You can answer.  
 25 A. Yes.

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1 **find out if Ms. Casey's a good attorney?**  
 2 A. No.  
 3 **Q. Is Ms. Fotiu-Wojtowicz a good attorney?**  
 4 MR. MULLALY: Objection to scope and form.  
 5 You can answer.  
 6 A. I don't know.  
 7 **Q (By Mr. Ruiz) Did ARAG, anyone from ARAG,**  
 8 **ask anybody to find out if Alaina Fotiu-Wojtowicz is a**  
 9 **good attorney?**  
 10 A. No.  
 11 **Q. No.**  
 12 **What's the name of Mr. Fitzgerald's attorney?**  
 13 A. I don't know.  
 14 **Q. And did ARAG do any investigation to**  
 15 **determine what kind of attorney that attorney is?**  
 16 MR. MULLALY: Objection to scope.  
 17 You can answer.  
 18 A. No.  
 19 **Q (By Mr. Ruiz) You know, ARAG would agree**  
 20 **that some plaintiffs are more aggressive than others;**  
 21 **right?**  
 22 MR. MULLALY: Same objection.  
 23 You can answer.  
 24 A. Yes, that seems like a fair statement.  
 25 **Q (By Mr. Ruiz) And ARAG would also agree that**

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1 **Q (By Mr. Ruiz) Does ARAG agree that the**  
 2 **damages claimed in the federal court litigation and in**  
 3 **the state court litigation threatened to bankrupt the**  
 4 **McNaes?**  
 5 MR. MULLALY: Same objections. Calls for  
 6 speculation.  
 7 You can answer.  
 8 A. I don't know.  
 9 **Q (By Mr. Ruiz) Did ARAG ever look into that?**  
 10 A. No.  
 11 **Q. After ARAG terminated Ms. Casey and**  
 12 **Ms. Fotiu-Wojtowicz, was there any chance at all that**  
 13 **ARAG would ever rehire them?**  
 14 MR. MULLALY: Objection to form and scope.  
 15 You can answer.  
 16 A. I don't know.  
 17 **Q (By Mr. Ruiz) Has that ever been discussed**  
 18 **inside of ARAG?**  
 19 A. Not to my knowledge.  
 20 **Q. Would ARAG consider that today if -- if it**  
 21 **was requested?**  
 22 MR. MULLALY: Objection to scope.  
 23 You can answer.  
 24 A. Can I have you clarify that question, if  
 25 you're referring just to the McNae matter?

62 (Pages 245 to 248)

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1 **Q (By Mr. Ruiz) Sure.**  
 2 **If the McNaes requested that ARAG rehire**  
 3 **Ms. Casey and Ms. Fotiu-Wojtowicz, would ARAG do that?**  
 4 MR. MULLALY: Object to scope. Calls for  
 5 speculation from the particular witness.  
 6 If you know, you can answer.  
 7 A. I don't know.  
 8 **Q (By Mr. Ruiz) Who is a more effective**  
 9 **attorney: Mr. Gomez or Ms. Casey and**  
 10 **Ms. Fotiu-Wojtowicz?**  
 11 MR. MULLALY: Same objections.  
 12 You can answer.  
 13 A. I don't know.  
 14 **Q (By Mr. Ruiz) Who do the McNaes think is a**  
 15 **better attorney?**  
 16 MR. MULLALY: Same objections.  
 17 You can answer.  
 18 A. I don't know.  
 19 **Q (By Mr. Ruiz) Did ARAG ever attempt to place**  
 20 **a limit on the maximum amount of money that Mr. Gomez**  
 21 **could charge?**  
 22 MR. MULLALY: Object to form.  
 23 You can answer.  
 24 A. I'm trying to recall.  
 25 Yes, I believe so.

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1 **Q. What was the third one? Can you remind me?**  
 2 MR. MULLALY: Same objection.  
 3 You can answer.  
 4 A. The applicability of exclusions.  
 5 **Q (By Mr. Ruiz) Let's focus on duplication of**  
 6 **work. Why was that a problem for --**  
 7 MR. MULLALY: Objection to scope -- oh.  
 8 **Q (By Mr. Ruiz) Why was that a problem for**  
 9 **ARAG?**  
 10 MR. MULLALY: Objection. Scope.  
 11 You can answer.  
 12 A. That is -- duplication of attorney services  
 13 is not payable under the fee agreement with ARAG.  
 14 **Q (By Mr. Ruiz) Is there an analysis inside of**  
 15 **ARAG that says these specific things were duplicated**  
 16 **that did not need to be duplicated, like identifying**  
 17 **specific things?**  
 18 MR. MULLALY: Objection to form and scope.  
 19 You can answer.  
 20 A. Yes. There was review of those invoices  
 21 in --  
 22 (Crosstalk)  
 23 **Q (By Mr. Ruiz) I don't mean to interrupt.**  
 24 **I'm sorry. Please continue.**  
 25 A. That was all.

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1 **Q (By Mr. Ruiz) Explain.**  
 2 MR. MULLALY: Object to form.  
 3 You can answer.  
 4 A. I -- there was a communication regarding  
 5 negotiation of fees with Mr. Gomez, and that is where a  
 6 limitation was discussed, proposed.  
 7 **Q (By Mr. Ruiz) One of the three -- oh, strike**  
 8 **that.**  
 9 **Who at ARAG brought that subject up?**  
 10 A. Ann Cosimano.  
 11 **Q. And who communicated that to Mr. Gomez?**  
 12 A. I'm going to say I'm not sure. I would have  
 13 to guess.  
 14 **Q. Did Mr. Gomez agree?**  
 15 A. No.  
 16 **Q. This morning you said there were three**  
 17 **concerns with Ms. Fotiu-Wojtowicz and Ms. Casey.**  
 18 **One was that they hadn't made -- allegedly**  
 19 **hadn't made reasonable efforts to resolve the claim, and**  
 20 **two was duplication of work.**  
 21 **Do you remember that?**  
 22 MR. MULLALY: Object to form and scope.  
 23 You can answer.  
 24 **Q (By Mr. Ruiz) Do you remember that?**  
 25 A. Yes.

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1 **Q. Is there a document that says these are the**  
 2 **items that were duplicated between Ms. Casey and**  
 3 **Ms. Wojtowicz?**  
 4 MR. MULLALY: Same objections.  
 5 You can answer.  
 6 A. Not to my knowledge.  
 7 **Q (By Mr. Ruiz) But whatever the level of**  
 8 **duplication, it was enough that it contributed to -- you**  
 9 **say it contributed to ARAG's decision to terminate.**  
 10 **Right?**  
 11 MR. MULLALY: Same objections.  
 12 You can answer.  
 13 A. Yes.  
 14 **Q (By Mr. Ruiz) But then again, Mr. Gomez is**  
 15 **duplicating work. That is undeniable; right?**  
 16 MR. MULLALY: Same objections.  
 17 You can answer.  
 18 A. I don't know.  
 19 **Q. Well, you tell me. Hadn't he been working on**  
 20 **the case before Ms. Wojtowicz and Ms. Casey were**  
 21 **terminated?**  
 22 MR. MULLALY: Objection to form.  
 23 You can answer.  
 24 A. No. His -- his contract with us was after  
 25 the termination occurred.

63 (Pages 249 to 252)

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1 Q (By Mr. Ruiz) Yeah. These are not trick  
2 questions.  
3 He had not attended any of the depositions;  
4 right?  
5 A. Right.  
6 Q. He had not talked to any of the witnesses;  
7 right?  
8 A. Right.  
9 Q. He had not read any of the court filings;  
10 right?  
11 A. Right.  
12 Q. He had not developed any strategy on the  
13 case; right?  
14 A. Right.  
15 Q. So once Ms. Fotiu-Wojtowicz and Ms. Casey got  
16 fired and he gets brought on, he has to learn all that  
17 that the other attorneys already knew.  
18 Do you agree?  
19 MR. MULLALY: Objection to the form and  
20 scope.  
21 You can answer.  
22 A. Yes.  
23 Q (By Mr. Ruiz) All right. Because he didn't  
24 attend the depositions, now he has to read the  
25 depositions and read them carefully.

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1 Do you agree?  
2 MR. MULLALY: Same objections.  
3 You can answer.  
4 A. Yes.  
5 Q (By Mr. Ruiz) And he has to get up to speed  
6 on all the motions that have been filed. Agreed?  
7 MR. MULLALY: Same objections.  
8 You can answer.  
9 A. Yes.  
10 Q (By Mr. Ruiz) That's all work that ARAG's  
11 already paid Ms. Casey and Ms. Fotiu-Wojtowicz to do;  
12 right?  
13 MR. MULLALY: Same objections.  
14 You can answer.  
15 A. He -- no. The fee agreement is talking about  
16 two attorneys simultaneously doing the same body of  
17 work.  
18 Q (By Mr. Ruiz) Well, you don't have one fee  
19 agreement with both Ms. Casey and Ms. Fojtowicz --  
20 Wojtowicz. You have two different agreements; correct?  
21 A. That's true.  
22 Q. And each one of them had a separate client.  
23 Agreed?  
24 A. Yes.  
25 Q. They owed fiduciary responsibilities to

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1 different people. Agreed?  
2 A. Yes.  
3 MR. MULLALY: Objection to scope.  
4 You can answer.  
5 Q (By Mr. Ruiz) Ms. McNae was not represented  
6 by Ms. Casey; agreed?  
7 A. Agreed.  
8 Q. And was there anything in Ms. Casey's  
9 contract with ARAG that said she was not allowed to do  
10 any work that overlapped with the work that Ms. -- let  
11 me start over.  
12 Was there anything in the contract that ARAG  
13 had with Ms. Casey that said she could not overlap in  
14 any way with the work that was to be done by  
15 Ms. Fotiu-Wojtowicz?  
16 MR. MULLALY: Objection to scope.  
17 You can answer.  
18 A. No, not specifically.  
19 Q (By Mr. Ruiz) Right.  
20 And regardless, once they were terminated,  
21 Mr. Gomez, the new attorney, he has to do a lot of the  
22 work that's already been done just to get up to speed  
23 and understand what's going on.  
24 Do you agree?  
25 MR. MULLALY: Objection to form and scope.

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1 You can answer.  
2 A. Yes.  
3 Q (By Mr. Ruiz) Does ARAG consider that to be  
4 duplication of effort?  
5 MR. MULLALY: Same objections.  
6 You can answer.  
7 A. No.  
8 Q (By Mr. Ruiz) Now, when you hired Mr. Gomez,  
9 did you say: You must do these following things to  
10 promote resolution of the claims?  
11 MR. MULLALY: Same objections.  
12 You can answer.  
13 A. No.  
14 Q (By Mr. Ruiz) No. And are you holding  
15 Mr. Gomez to the same standard that you held Ms. Casey  
16 and Ms. Fotiu-Wojtowicz?  
17 MR. MULLALY: Same objections.  
18 (Crosstalk)  
19 MR. MULLALY: You can answer. I'm sorry.  
20 Q (By Mr. Ruiz) And I'm specifically referring  
21 to the alleged failure to resolve the claim.  
22 MR. MULLALY: Same objections.  
23 You can answer.  
24 A. Yes, the same provisions apply.  
25 Q (By Mr. Ruiz) All right. Yeah. Different

64 (Pages 253 to 256)



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1 question.

2 I'm asking if you're holding him to the  
3 different -- to the same standard. Is there an internal  
4 document at ARAG that is criticizing Mr. Gomez for  
5 failing to take steps to resolve the claims?

6 A. No.

7 Q. Has there been a meeting between the  
8 president and Ms. Cosimano to discuss whether Mr. Gomez  
9 is failing to take reasonable steps to resolve the  
10 claims?

11 A. I don't know.

12 Q. Has there been any meeting between anybody to  
13 address the issue of whether Mr. Gomez is taking  
14 reasonable steps to resolve the claims?

15 A. Not to my knowledge.

16 Q. So explain to me how it is that ARAG is  
17 allegedly applying the same standard to Mr. Gomez that  
18 it applied to Ms. Casey or Ms. Fotiu-Wojtowicz.

19 MR. MULLALY: Object to form.

20 You can answer.

21 A. We're conducting the same review of the  
22 invoices and the status updates that are received to  
23 understand what's happening with the -- with the case.

24 Q (By Mr. Ruiz) What's happening with the  
25 case?

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1 mentioned?

2 MR. MULLALY: Objection to form.

3 You can answer.

4 A. No.

5 Q (By Mr. Ruiz) Has there been a bonus program  
6 that applied to members of the claims department?

7 MR. MULLALY: Objection to form.

8 You can answer.

9 A. Yes.

10 Q (By Mr. Ruiz) How does the bonus program  
11 work?

12 A. The bonus program applies to all members of  
13 the ARAG organization, and every person is eligible for  
14 a percentage of their annual salary.

15 Q. How does the company decide whether there's  
16 going to be a bonus in a given year?

17 A. The company looks at profit and revenue and,  
18 based on those results, makes that determination about  
19 the bonus.

20 Q. Bonus determination for employees of ARAG,  
21 including members of the claims department, that's tied  
22 to the profitability of the company?

23 MR. MULLALY: Objection to form.

24 You can answer.

25 A. Yes, in part.

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1 A. I have --

2 MR. MULLALY: Object to scope.

3 You can answer.

4 A. I haven't recently reviewed one of those  
5 invoices.

6 Q (By Mr. Ruiz) Well, just since the last time  
7 you looked at them, what's happening with the case?

8 MR. MULLALY: Same objection.

9 You can answer.

10 A. I can't answer that.

11 Q (By Mr. Ruiz) Okay. Are there any documents  
12 at ARAG that address not overpaying claims using that  
13 language, "overpaying"?

14 MR. MULLALY: Object to form.

15 You can answer.

16 A. Yes.

17 Q (By Mr. Ruiz) Tell me about those.

18 A. Our claims adjudication document would --  
19 points to ensuring that invoices are calculated  
20 correctly when they're received and making any updates  
21 that are necessary before approving them.

22 Q. Any other documents?

23 A. No.

24 Q. Are there any written strategies relating to  
25 not overpaying claims besides the document that you've

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1 Q (By Mr. Ruiz) What documents exist that  
2 describe the bonus program?

3 A. We do -- hm.

4 I know we have an internal policy that  
5 addresses that. I don't know the name of it offhand,  
6 but it's, you know, the incentive program.

7 Q. It's written down somewhere?

8 A. Yes.

9 Q. Okay. What -- if you wanted to get a copy of  
10 it, where would you go?

11 A. I can check --

12 (Crosstalk)

13 MR. MULLALY: Sorry. Go ahead.

14 Object to scope.

15 You can answer.

16 A. It's available to internal employees on our  
17 internal website.

18 Q (By Mr. Ruiz) Has there been any discipline  
19 of any ARAG employee related to the handling of the  
20 McNaes' insurance claims?

21 MR. MULLALY: Object to form.

22 You can answer.

23 A. No.

24 Q (By Mr. Ruiz) Has there been any reprimand  
25 of any of the employees for what they did on the McNae

65 (Pages 257 to 260)

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1 insurance claims?

2 MR. MULLALY: Same objection.

3 You can answer.

4 A. No.

5 **Q (By Mr. Ruiz) In your -- is it twelve years**  
6 **at ARAG?**

7 A. Yes, twelve years.

8 **Q. In your twelve years, has there ever been**  
9 **discipline of any employee relating to how they handled**  
10 **an insurance claim?**

11 MR. MULLALY: Object. Outside of scope.

12 You can answer.

13 A. No, not related to a single claim or case.

14 **Q (By Mr. Ruiz) What about a reprimand?**

15 MR. MULLALY: Same objection.

16 You can answer.

17 A. At times, if a team member is not meeting  
18 their expectations in their role, there would be  
19 discussions around how to improve that.

20 **Q (By Mr. Ruiz) Now, Ms. Cosimano, she doesn't**  
21 **report to you; right?**

22 A. No.

23 **Q. And -- I guess, you don't report to her**  
24 **either. Agreed?**

25 A. I used to, but not any longer.

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1 A. I agree with that.

2 **Q. (By Mr. Ruiz) And even after everything**  
3 **we've covered here today, you still don't disagree with**  
4 **anything ARAG did?**

5 MR. MULLALY: Same objections.

6 You can answer.

7 A. No, I -- I don't disagree.

8 **Q (By Mr. Ruiz) And in the twelve years you've**  
9 **worked for ARAG, has there ever been a time that you**  
10 **disagreed with an action taken by ARAG on an insurance**  
11 **claim?**

12 MR. MULLALY: Objection to scope.

13 You can answer.

14 A. Yes.

15 **Q (By Mr. Ruiz) Okay. When was the last time?**

16 MR. MULLALY: Same objection.

17 You can answer.

18 A. I don't know the last time.

19 **Q (By Mr. Ruiz) All right. Well, I'm assuming**  
20 **it doesn't happen very often. Is that right?**

21 MR. MULLALY: Same objection.

22 You can answer.

23 A. You're correct. That doesn't happen very  
24 often.

25 **Q (By Mr. Ruiz) So give me one example of a**

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1 **Q. But you're not in a position to disagree with**  
2 **Ms. Cosimano on any claim decision she made, are you?**

3 MR. MULLALY: Objection to form and scope.

4 You can answer.

5 A. I would not be uncomfortable voicing my  
6 disagreement with her decision if I had reason to.

7 **Q (By Mr. Ruiz) But you didn't in connection**  
8 **with the McNaes' insurance claims; right?**

9 A. Correct.

10 (Crosstalk)

11 MR. MULLALY: Objection to form.

12 Sorry. You can answer.

13 A. I didn't --

14 (Crosstalk)

15 **Q. (By Mr. Ruiz) -- disagreed, because you**  
16 **don't disagree with --**  
17 **(Crosstalk)**

18 THE COURT REPORTER: Sorry, can we slow it  
19 down a lot? There's a lot of stepping on and I'm  
20 getting really tired.

21 **Q (By Mr. Ruiz) You didn't disagree with**  
22 **anything ARAG did with respect to the McNaes' claim.**  
23 **Agreed?**

24 MR. MULLALY: Objection to form and scope.

25 You can answer.

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1 time that you disagreed with a decision that ARAG made.

2 MR. MULLALY: Same objection.

3 You can answer.

4 A. A circumstance involving providing --  
5 providing payment -- I'm trying to think of the best way  
6 to describe it. But essentially just due to a  
7 miscommunication with a plan member, agreeing to pay for  
8 their infraction as opposed to applying that under the  
9 benefit plan.

10 **Q (By Mr. Ruiz) So the decision to not give**  
11 **the McNaes a warning that their attorneys were going to**  
12 **be terminated or possibly be terminated, you agree with**  
13 **that? You agree with the decision not to warn them;**  
14 **right?**

15 MR. MULLALY: Objection to form and scope.

16 You can answer.

17 A. I -- I don't disagree with that action that  
18 was taken.

19 **Q (By Mr. Ruiz) You don't -- you don't**  
20 **disagree with the fact that the -- you don't think there**  
21 **was anything wrong with not warning the McNaes that ARAG**  
22 **was considering terminating their attorneys?**

23 MR. MULLALY: Same objections.

24 You can answer.

25 A. No.

66 (Pages 261 to 264)

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1 **Q (By Mr. Ruiz) You don't think there's**  
 2 **anything wrong with not warning the attorneys that they**  
 3 **were being considered to be terminated; right?**  
 4 MR. MULLALY: Same objection.  
 5 You can answer.  
 6 A. No, I don't think there's anything wrong.  
 7 **Q (By Mr. Ruiz) And there's nothing wrong with**  
 8 **ARAG not asking the attorneys for more information about**  
 9 **reasonable settlement efforts before they were**  
 10 **terminated; right?**  
 11 MR. MULLALY: Same objection.  
 12 You can answer.  
 13 A. That's right.  
 14 **Q (By Mr. Ruiz) Did Ms. Casey ever lie to**  
 15 **ARAG?**  
 16 A. I don't know.  
 17 MR. MULLALY: Objection. Scope.  
 18 **Q (By Mr. Ruiz) Please answer.**  
 19 A. I don't know.  
 20 **Q. Did Ms. Alaina Fotiu-Wojtowicz ever lie to**  
 21 **ARAG?**  
 22 MR. MULLALY: Objection. Scope.  
 23 You can answer.  
 24 A. I don't know.  
 25 **Q (By Mr. Ruiz) Okay. What are all the**

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1 **inside of Microsoft Outlook or whatever the email server**  
 2 **is relating to insurance claims as well. Correct?**  
 3 A. Yes.  
 4 **Q. Right.**  
 5 **Do you know how Mr. Murray prefers to**  
 6 **communicate? Is it Outlook? Is it text message?**  
 7 **Teams?**  
 8 **Do you know how he likes to communicate?**  
 9 MR. MULLALY: Objection to scope.  
 10 You can answer.  
 11 A. No, I don't know.  
 12 **Q (By Mr. Ruiz) All right. And so we've got**  
 13 **Outlook, Teams, Pulse. Any other place where, at ARAG,**  
 14 **information about an insurance claim could be located?**  
 15 A. No, I don't think so.  
 16 **Q. All right. So I've seen faxes. Where do**  
 17 **faxes go? Because I know I sent you one, so I know that**  
 18 **you guys get faxes.**  
 19 **Where do those go?**  
 20 A. Outlook.  
 21 **Q. Okay, those go into Outlook. So that's**  
 22 **another kind of document that you could find inside of**  
 23 **Outlook?**  
 24 A. Yes.  
 25 **Q. Do you know what procedure was used by ARAG**

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1 **different places that documents about a specific**  
 2 **insurance claim can be found at ARAG?**  
 3 A. Within the claim record itself, in the Pulse  
 4 system.  
 5 **Q. Where else?**  
 6 A. Nowhere else. That's where they're housed.  
 7 **Q. Well, there's got to be more, because we saw**  
 8 **that Teams message. Right?**  
 9 MR. MULLALY: Object to form.  
 10 You can answer.  
 11 **Q (By Mr. Ruiz) Remember we looked about a**  
 12 **Teams message about the McNae insurance claim?**  
 13 A. Yes, I remember.  
 14 **Q. All right. So there's information inside of**  
 15 **Teams about insurance claims too; right?**  
 16 MR. MULLALY: Objection to form.  
 17 You can answer.  
 18 A. Yes. On occasion, there are notes about  
 19 claims within the Teams system.  
 20 **Q (By Mr. Ruiz) And I guess I've been assuming**  
 21 **that the employees of ARAG used Microsoft Outlook for**  
 22 **email. Is that true?**  
 23 A. Yes.  
 24 **Q. And we've seen a plethora of emails relating**  
 25 **to the McNaes. So we know that there's information**

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1 **to collect the documents relating to the plaintiffs in**  
 2 **this case?**  
 3 MR. MULLALY: Objection to scope.  
 4 You can answer if you have knowledge.  
 5 A. What was -- what was the question again?  
 6 **Q (By Mr. Ruiz) What was the procedure used**  
 7 **inside of ARAG to collect the documents relating to the**  
 8 **McNaes so that they could be produced to me**  
 9 MR. MULLALY: Objection to scope.  
 10 If you have knowledge, you can answer.  
 11 A. The -- the piece that I have knowledge of  
 12 is that the claims and case coordination teams, each  
 13 individual, retrieved Outlook emails, Teams messages,  
 14 and provided those to Kathy Miller for assembling.  
 15 **Q. What about other teams, other departments?**  
 16 MR. MULLALY: Same objection.  
 17 You can answer if you have knowledge.  
 18 A. I can't speak for the other teams.  
 19 **Q (By Mr. Ruiz) Okay. Do you know if anyone**  
 20 **asked Mr. Murray to search his emails?**  
 21 MR. MULLALY: Same objection.  
 22 If you have knowledge, you can answer.  
 23 A. I don't know.  
 24 **Q (By Mr. Ruiz) Okay. Or his Teams or his**  
 25 **Outlook or anything like that?**

67 (Pages 265 to 268)

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1 MR. MULLALY: Same objection.  
 2 You can answer.  
 3 A. I don't know.  
 4 **Q (By Mr. Ruiz) Recorded telephone calls, are**  
 5 **there any of those?**  
 6 A. Yes. We have recorded telephone calls.  
 7 **Q. Okay. And what system is used to maintain**  
 8 **those?**  
 9 A. Genesis.  
 10 **Q. Is every call between an insured and ARAG**  
 11 **recorded?**  
 12 MR. MULLALY: Objection. Scope.  
 13 You can answer if you know.  
 14 A. I don't know.  
 15 **Q (By Mr. Ruiz) And so who would be in charge**  
 16 **of searching Genesis for calls relating to the McNaes?**  
 17 MR. MULLALY: Same objection.  
 18 You can answer if you know.  
 19 A. Jeff LeMay.  
 20 **Q (By Mr. Ruiz) All right. So we started with**  
 21 **Pulse and then we grew to Outlook, Teams, and now we**  
 22 **have Genesis.**  
 23 **I want you to think real hard, if you can,**  
 24 **what other systems are there that have information**  
 25 **relating to insurance claims?**

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1 MR. MULLALY: Objection to form.  
 2 You can answer.  
 3 A. I don't know of any other.  
 4 **Q (By Mr. Ruiz) Okay. Sometimes insurance**  
 5 **companies will do background checks on their insureds,**  
 6 **for whatever reason.**  
 7 **Did they -- did ARAG do anything like that**  
 8 **for -- relating to Ronda or Will McNae?**  
 9 A. I've never known of background checks to be  
 10 conducted. So no.  
 11 **Q. Has ARAG produced all communications with**  
 12 **Richard Gomez?**  
 13 MR. MULLALY: Objection to scope.  
 14 If you know, you can answer.  
 15 A. I don't know.  
 16 **Q (By Mr. Ruiz) Is ARAG getting ready to**  
 17 **terminate Mr. Gomez?**  
 18 MR. MULLALY: Objection to scope.  
 19 If you have knowledge, you can answer.  
 20 A. I don't know.  
 21 **Q (By Mr. Ruiz) Is ARAG considering**  
 22 **terminating Mr. Gomez?**  
 23 MR. MULLALY: Objection to scope.  
 24 If you have knowledge, you can answer.  
 25 A. I don't know.

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1 **Q (By Mr. Ruiz) If ARAG decides it may**  
 2 **terminate Mr. Gomez, will it let the McNaes know as soon**  
 3 **as it is considering the possibility this time?**  
 4 MR. MULLALY: Object to form and scope.  
 5 You can answer if you know.  
 6 A. I don't know.  
 7 **Q (By Mr. Ruiz) Is Mr. Gomez making reasonable**  
 8 **efforts towards resolving the claims?**  
 9 MR. MULLALY: Objection to scope.  
 10 You can answer if you know.  
 11 A. Yes.  
 12 **Q (By Mr. Ruiz) Explain, please.**  
 13 MR. MULLALY: Objection to form.  
 14 You can answer.  
 15 A. Invoices and information received from  
 16 Mr. Gomez are being communicated directly to Ann  
 17 Cosimano, who is then sending those over to the claims  
 18 department for processing after Ann has taken a look at  
 19 those.  
 20 **Q (By Mr. Ruiz) All right. But my question**  
 21 **was about whether Mr. Gomez was making reasonable**  
 22 **efforts toward resolving the claims, and you just told**  
 23 **me who looks at the invoices.**  
 24 **Explain why you believe ARAG believes -- what**  
 25 **is Mr. Gomez doing that represents reasonable efforts**

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1 **towards resolving the claims?**  
 2 MR. MULLALY: Objection to scope.  
 3 You can answer if you know.  
 4 A. I can't answer that.  
 5 **Q (By Mr. Ruiz) You don't know?**  
 6 A. No, I don't know.  
 7 **Q. Well, remember at the beginning, I said**  
 8 **please don't guess or speculate? So I'm going to ask**  
 9 **you the question again.**  
 10 **Does ARAG believe that Mr. Gomez is making**  
 11 **reasonable efforts towards resolving the claims?**  
 12 **I don't want you to guess --**  
 13 **(Crosstalk)**  
 14 **Q. I don't want you to guess. I only want to**  
 15 **answer if you know what ARAG's position is.**  
 16 MR. MULLALY: Objection to scope.  
 17 You can answer if you have knowledge.  
 18 A. Yes.  
 19 **Q (By Mr. Ruiz) Now, what leads you to say**  
 20 **"yes"?**  
 21 MR. MULLALY: Same objections.  
 22 You can answer.  
 23 A. When Ann Cosimano forwards the invoices to me  
 24 with the instruction to process them for payment, I  
 25 trust that Ann Cosimano is providing me with information

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1 that's accurate.

2 **Q (By Mr. Ruiz) In addition to your faith in**  
 3 **Ms. Cosimano, what facts do you have, what facts does**  
 4 **ARAG have, that Mr. Gomez is making reasonable efforts**  
 5 **toward resolving the claims?**

6 MR. MULLALY: Same objection to scope.

7 You can answer.

8 A. Besides Ann Cosimano's review and advice, no,  
 9 I'm -- no other -- no other sources.

10 **Q (By Mr. Ruiz) Does one of those documents**  
 11 **that Ms. Cosimano forwards to you say the words that she**  
 12 **believes Mr. Gomez is making reasonable efforts towards**  
 13 **resolving the claims?**

14 A. No.

15 **Q. You're assuming that she thinks that?**

16 A. Yes.

17 **Q. Okay. Remember what I said about**  
 18 **assumptions. I really -- I'm serious when I say, I**  
 19 **don't want you speculating or assuming. I'm asking for**  
 20 **what ARAG knows. And after I ask what ARAG knows, you**  
 21 **know I always ask, "Well, explain the facts that lead to**  
 22 **that."**

23 **Does ARAG believe that Mr. Gomez is making**  
 24 **reasonable efforts towards resolving the claims?**

25 MR. MULLALY: Objection to scope.

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1 THE VIDEOGRAPHER: All right. This concludes  
 2 today's 30(b)(6) deposition of ARAG Insurance Company  
 3 designee Meagen Adams. The time now is approximately  
 4 4:59 p.m. We are going off the record.

5 (Reading and signing was requested  
 6 pursuant to FRCP Rule 30(e).)

7 (Deposition concluded at 4:59 p.m.)  
 8 (Reporter officially marked exhibits  
 9 at conclusion of deposition.)

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1 If you have knowledge, you can answer.

2 A. Then I don't know.

3 MR. RUIZ: All right. Can we go off the  
 4 record?

5 MR. MULLALY: Sure.

6 THE VIDEOGRAPHER: The time now is  
 7 approximately 4:55 p.m.

8 (Recess 4:55 p.m. to 4:58 p.m.)

9 MR. RUIZ: No further questions.

10 THE VIDEOGRAPHER: Back on the record. The  
 11 time now is approximately 4:58 p.m.

12 MR. RUIZ: I jumped the gun.

13 Ms. Adams, thank you for being here today. I  
 14 don't know if I'll see you again, but have a good  
 15 weekend.

16 THE WITNESS: Thank you. You too.

17 MR. MULLALY: Thank you, Isaac.

18 We have no questions at this time, and I'll  
 19 reserve our right to review and sign.

20 MR. RUIZ: We will go ahead and order an  
 21 Etran with PDF exhibits. No original at this time.  
 22 Thank you.

23 MR. MULLALY: May we have the same, please?

24 MR. RUIZ: No video at this time either.

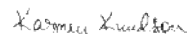
25 But, Brook, it is nice to see you.


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# REPORTER'S CERTIFICATE

1 I, KARMEN M. KNUDSON, the undersigned Certified  
 2 Court Reporter, pursuant to RCW 5.28.010 authorized to  
 3 administer oaths and affirmations in and for the State  
 4 of Washington, do hereby certify that the sworn  
 5 testimony and/or proceedings, a transcript of which is  
 6 attached, was given before me at the time and place  
 7 stated therein; that any and/or all witness(es) were  
 8 duly sworn to testify to the truth; that the sworn  
 9 testimony and/or proceedings were by me stenographically  
 10 recorded and transcribed under my supervision, to the  
 11 best of my ability; that the foregoing transcript  
 12 contains a full, true, and accurate record of all the  
 13 sworn testimony and/or proceedings given and occurring  
 14 at the time and place stated in the transcript; that a  
 15 review of which was reserved; that I am in no way  
 16 related to any party to the matter, nor to any counsel,  
 17 nor do I have any financial interest in the event of the  
 18 cause.

19 WITNESS MY HAND and DIGITAL SIGNATURE this 27th  
 20 day of August, 2024.

21 

22   
 23 Karmen M. Knudson, CCR, RPR, CRR  
 24 Certified Court Reporter No. 1935.  
 25

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